

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 933

To amend the Public Health Service Act to ensure that affordable, comprehensive, high quality health care coverage is available through the establishment of State-based programs for children and for all uninsured pregnant women, and to facilitate access to health services, strengthen public health functions, enhance health-related research, and support other activities that improve the health of mothers and children, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 15 (legislative day, JUNE 5), 1995

Mr. SIMON introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

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## A BILL

To amend the Public Health Service Act to ensure that affordable, comprehensive, high quality health care coverage is available through the establishment of State-based programs for children and for all uninsured pregnant women, and to facilitate access to health services, strengthen public health functions, enhance health-related research, and support other activities that improve the health of mothers and children, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE, TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Healthy Mothers, Healthy Children Act of 1995”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 this Act is as follows:

Sec. 1. Short title, table of contents.

Sec. 2. Findings.

TITLE I—NATIONAL HEALTH TRUST FUND FOR MOTHERS AND  
CHILDREN

Sec. 101. Establishment.

TITLE II—HEALTHY MOTHERS, HEALTHY CHILDREN PROGRAM

Sec. 201. Establishment and allocation of funds.

Sec. 202. Comprehensive health benefits and cost sharing requirements.

Sec. 203. State program development and administration.

Sec. 204. Grants to improve the health of children and pregnant women.

Sec. 205. Responsibilities of families, certified plans, employers, States, and the  
Federal government.

Sec. 206. Existing programs.

Sec. 207. General provisions.

Sec. 208. Unlawful use of tobacco products manufactured for export.

TITLE III—FINANCING PROVISIONS

Sec. 301. Increase in taxes on tobacco products.

Sec. 302. Assistance to States adversely affected by the tobacco tax.

Sec. 303. Designation of overpayments and contributions for the National  
Health Trust Fund for Mothers and Children.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The health of mothers and children in the  
9 United States is vital to the development and com-  
10 petitiveness of the Nation. Investing in comprehen-  
11 sive health services for children substantially in-  
12 creases their potential to be healthy, productive  
13 members of society and averts significant health care  
14 and other costs later in life. Similarly, ensuring that

1 all pregnant women receive adequate prenatal care  
2 significantly increases the likelihood of healthy in-  
3 fants and results in substantial savings in future  
4 health care costs to society.

5 (2) The State and Federal Government, in  
6 partnership with families, must assume responsibil-  
7 ity for providing health care coverage to children  
8 since children do not have the means to ensure their  
9 own health. This partnership should be based on in-  
10 dividual and family responsibility as well as society's  
11 responsibility to ensure that all children and preg-  
12 nant women have affordable, comprehensive, high  
13 quality health care coverage. Responsibility for en-  
14 suring the quality of health services should be  
15 shared among families, providers, health plans, em-  
16 ployers, and State and Federal Governments.

17 (3) The United States is the wealthiest nation  
18 in the world, but it is not the healthiest nation. The  
19 health status of mothers and children in the United  
20 States lags behind many other countries. The United  
21 States ranks 22nd in infant mortality and 18th in  
22 maternal mortality compared to all other nations. In  
23 addition, many developing countries have higher  
24 childhood immunization rates than the United  
25 States. Rates of preventable health conditions, ex-

1       cess morbidity, and premature mortality are high es-  
2       pecially among low income families and significant  
3       disparities exist in the health status of children and  
4       pregnant women.

5           (4) All children and pregnant women in the  
6       United States should receive comprehensive, high  
7       quality health care. However, many children and  
8       pregnant women in the United States are not receiv-  
9       ing adequate health care. In 1993, 11,100,000 or 16  
10      percent of all children under the age of 18 did not  
11      have health insurance or publicly-financed health  
12      care, up from 10,200,000 or 15 percent in 1992.  
13      Children accounted for the largest proportion of the  
14      increase in the number of uninsured persons be-  
15      tween 1992 and 1993. Of such 1,100,000 net in-  
16      crease in the number of uninsured persons, 84 per-  
17      cent or 922,500 were children.

18           (5) In 1993, 24 percent of all children and 29  
19      percent of children under seven years of age were  
20      living below the Federal poverty level. Despite recent  
21      federally mandated expansions in Medicaid, 22 per-  
22      cent of all children living below the poverty line did  
23      not have health insurance. In addition, more than 90  
24      percent of all uninsured children were in families  
25      earning less than 400 percent of the Federal poverty

1 level. Uninsured children are significantly less likely  
2 to receive medically necessary care from a physician  
3 compared to insured children. In addition, approxi-  
4 mately 500,000 pregnant women did not have health  
5 insurance in 1992 and 22 percent of mothers did  
6 not receive prenatal care in the first trimester.

7 (6) Health care delivery systems should be con-  
8 sistent with health care needs and conditions at the  
9 State and local levels. Given the variability in cur-  
10 rent health care delivery systems and health care  
11 needs and conditions among the States, States  
12 should have primary responsibility for developing  
13 and administering a delivery system for their resi-  
14 dents. To ensure that all persons covered under  
15 State health care delivery systems have affordable,  
16 comprehensive, high quality care, and that such cov-  
17 erage is equally available among the States, State  
18 systems should be consistent with Federal guide-  
19 lines. These guidelines should ensure a minimum na-  
20 tional standard of care for all children and pregnant  
21 women. However, State and Federal guidelines  
22 should be based on a “management by objectives”  
23 approach where States and health plans are given  
24 maximum flexibility and are encouraged to be inno-  
25 vative in meeting program objectives.

1 **TITLE I—NATIONAL HEALTH**  
 2 **TRUST FUND FOR MOTHERS**  
 3 **AND CHILDREN**

4 **SEC. 101. ESTABLISHMENT.**

5 (a) IN GENERAL.—Subchapter A of chapter 98 (re-  
 6 lating to establishment of trust funds) is amended by add-  
 7 ing at the end the following new part:

8 **“PART II—HEALTH CARE TRUST FUNDS**

“Sec. 9551. National Health Trust Fund for Mothers and Chil-  
 dren

9 **“SEC. 9551. NATIONAL HEALTH TRUST FUND FOR MOTHERS**  
 10 **AND CHILDREN.**

11 “(a) CREATION OF TRUST FUND.—There is estab-  
 12 lished in the Treasury of the United States a trust fund  
 13 to be known as the ‘National Health Trust Fund for  
 14 Mothers and Children’ to support State-based programs  
 15 under title XXVII of the Public Health Service Act that  
 16 ensure affordable, comprehensive, high quality health care  
 17 coverage for children, and for all uninsured pregnant  
 18 women. The National Health Trust Fund for Mothers and  
 19 Children shall consist of such amounts as may be appro-  
 20 priated or credited to the Trust Fund as provided for in  
 21 this section or section 9602(b) and such cash contribu-  
 22 tions as may be made.

23 “(b) TRANSFERS TO THE TRUST FUND.—

1           “(1) IN GENERAL.—There are hereby appro-  
2           priated to the National Health Trust Fund for  
3           Mothers and Children amounts received in the  
4           Treasury under—

5                   “(A) section 5701 (relating to taxes on to-  
6                   bacco products) to the extent attributable to the  
7                   increases of such taxes as the result of the en-  
8                   actment of section 301 of the Healthy Mothers,  
9                   Healthy Children Act of 1995 minus any  
10                  amount appropriated to the Tobacco Alter-  
11                  natives Trust Fund under section 9512(b), and

12                   “(B) section 6097 (relating to the designa-  
13                   tion of overpayments and contributions to the  
14                   Trust Fund).

15           “(2) SAVINGS AMOUNTS.—There are hereby ap-  
16           propriated to the National Health Trust Fund for  
17           Mothers and Children for each fiscal year amounts  
18           equivalent to the amount of estimated Federal sav-  
19           ings in such fiscal year—

20                   “(A) under the medicaid program under  
21                   title XIX of the Social Security Act resulting  
22                   from the enactment of the Healthy Mothers,  
23                   Healthy Children Act of 1995, and

24                   “(B) attributable to a duplication of serv-  
25                   ices or functions under any other Federal

1 health program resulting from the enactment of  
2 the Healthy Mothers, Healthy Children Act of  
3 1995.

4 “(c) EXPENDITURES.—

5 “(1) IN GENERAL.—Except as provided in para-  
6 graph (2), amounts in the National Health Trust  
7 Fund for Mothers and Children are appropriated as  
8 provided for in section 2782 of the Public Health  
9 Service Act, and to the extent any such amount is  
10 not expended during any fiscal year, such amount  
11 shall be available for such purpose for subsequent  
12 fiscal years.

13 “(2) PREVENTION OF TOBACCO USE.—

14 “(A) IN GENERAL.—Amounts not to ex-  
15 ceed the amount described in subparagraph (B)  
16 are appropriated in each fiscal year to fund ac-  
17 tivities at the Office on Smoking and Health,  
18 Centers for Disease Control and Prevention to  
19 prevent the initiation of smoking and use of  
20 other tobacco products by children and to co-  
21 ordinate Federal and State tobacco prevention  
22 and control initiatives. To the extent any such  
23 amount is not expended during any fiscal year,  
24 such amount shall be available for such purpose  
25 for subsequent fiscal years.



1           “(B) AMOUNT DESCRIBED.—The Secretary  
 2           of Health and Human Services may determine  
 3           an amount under this subparagraph not to ex-  
 4           ceed 0.2% of the annual amounts described  
 5           under subsection (b)(1)(A) received in the Na-  
 6           tional Health Trust Fund for Mothers and  
 7           Children.”.

8           (b) CONFORMING AMENDMENT.—Subchapter A of  
 9           chapter 98 is amended by inserting after the subchapter  
 10          heading the following new items:

                  “Part I. General trust funds.  
                   “Part II. Health care trust fund.

11           **“PART I—GENERAL TRUST FUNDS”.**

12           **TITLE II—HEALTHY MOTHERS,**  
 13           **HEALTHY CHILDREN PROGRAM**

14           **SEC. 201. ESTABLISHMENT AND ALLOCATION OF FUNDS.**

15           The Public Health Service Act (42 U.S.C. 201 et  
 16           seq.) is amended by adding at the end thereof the follow-  
 17           ing new title:

18           **“TITLE XXVII—HEALTHY MOTH-**  
 19           **ERS, HEALTH CHILDREN PRO-**  
 20           **GRAM**

21           **“SEC. 2700. ESTABLISHMENT OF PROGRAM.**

22           “A State that desires to become a participating State  
 23           under this title and receive an allocation under section  
 24           2701, shall, in accordance with this title, establish a State

1 program to ensure that eligible children and pregnant  
2 women residing in the State are enrolled in certified plans  
3 that provide for or cover the costs of comprehensive, high  
4 quality health care items or services provided to such eligi-  
5 ble individuals.

6 **“Part A—Allocation of Funds**

7 **“SEC. 2701. ALLOCATION OF FUNDS TO PARTICIPATING**  
8 **STATES.**

9 “(a) INITIAL ALLOCATION.—With respect to a par-  
10 ticipating State, during each of the first two fiscal years  
11 in which the State program is in effect, the Secretary shall  
12 make available to the State, from the Trust Fund, an  
13 amount based on a formula developed by the Secretary  
14 that takes into consideration—

15 “(1) the estimated number of eligible children  
16 under 7 years of age residing in the State;

17 “(2) the number of pregnant women residing in  
18 the State that lack health insurance; and

19 “(3) a geographic adjustment factor for the  
20 State that is dependent on the average cost of health  
21 care in such State.

22 “(b) SUBSEQUENT FISCAL YEARS.—

23 “(1) FORMULA.—With respect to a participat-  
24 ing State, during each fiscal year subsequent to the  
25 first two fiscal years in which the State program is

1 in effect, the Secretary shall make available to the  
2 State, from the Trust Fund, an amount based on  
3 a formula developed by the Secretary that takes into  
4 consideration—

5 “(A) the factors referred to in subsection  
6 (a);

7 “(B) to encourage the enrollment of all eli-  
8 gible individuals in the State in the State pro-  
9 gram, an additional factor developed by the  
10 Secretary that takes into consideration the  
11 number of eligible individuals enrolled in the  
12 State program in the year immediately preced-  
13 ing the year for which the allocation under this  
14 subsection is being made; and

15 “(C) an index that reflects the estimated  
16 national average rate of inflation for health care  
17 expenditures for children and a similar index  
18 for pregnant women, to ensure that any in-  
19 crease in allocations under this subsection do  
20 not exceed the increase in such inflation index  
21 from the previous fiscal year.

22 The additional factor shall be developed under sub-  
23 paragraph (B) so that as the number of eligible indi-  
24 viduals enrolled in the previous year increases, the  
25 amount of the allocation for the State also increases.

1 “(2) WAIVERS.—

2 “(A) REQUEST BY STATE.—A participat-  
3 ing State may request that the Secretary, in al-  
4 locating funds under paragraph (1), waive the  
5 consideration of the index under subparagraph  
6 (C) of such paragraph with respect to such  
7 State.

8 “(B) GRANT OF WAIVER.—The Secretary  
9 may grant a request for a waiver under sub-  
10 paragraph (A) if the Secretary determines that  
11 the participating State has demonstrated that  
12 extenuating circumstances within the State ex-  
13 isted which caused unavoidable increases in the  
14 cost of health services provided to children and  
15 pregnant women, and that the State has consid-  
16 ered all reasonable strategies to control costs,  
17 including working with certified plans to control  
18 costs, reducing administrative costs, restructur-  
19 ing the State program, and minimizing fraud  
20 and abuse.

21 **“SEC. 2702. STATE TRUST FUNDS AND MATCHING CON-**  
22 **TRIBUTION.**

23 “(a) STATE TRUST FUND.—

24 “(1) ESTABLISHMENT.—To be a participating  
25 State under this title, a State shall establish a State

1 trust fund (or in the case of regional programs, a re-  
2 gional trust fund) in which the State shall deposit—

3 “(A) all funds allocated to the State under  
4 section 2701;

5 “(B) all funds provided by the State under  
6 subsection (b); and

7 “(C) any additional funds determined ap-  
8 propriated by the State.

9 “(2) TRANSFER OF FUNDS.—From the Trust  
10 Fund, the Secretary shall, on an annual basis, trans-  
11 fer to the trust fund of a participating State the  
12 amount of the State’s allocation under section 2701  
13 for the fiscal year involved. Such annual transfer of  
14 funds shall be contingent on a satisfactory annual  
15 evaluation of the program of the participating State,  
16 and the approval of the annual plan of the State by  
17 the Secretary as required in section 2731(b).

18 “(3) USE OF FUNDS.—Amounts contained in  
19 the State trust fund shall be used solely for activities  
20 directly related to the provision of health services to  
21 eligible children or pregnant women or for other ac-  
22 tivities specifically authorized under this title.

23 “(b) MATCHING REQUIREMENT.—

24 “(1) IN GENERAL.—The Secretary may not  
25 make an allocation to a participating State under

1 section 2701 unless that State agrees that, with re-  
2 spect to the costs to be incurred by the State in car-  
3 rying out the program for which the allocation is  
4 provided, the State will make available an amount  
5 determined by the Secretary based on a formula that  
6 takes into account the annual per capita income of  
7 each State. In determining the matching require-  
8 ment applicable to each State under this paragraph,  
9 the Secretary shall ensure that—

10 “(A) each such matching requirement is  
11 more generous for the State than the matching  
12 requirement applicable under title XIX of the  
13 Social Security Act at the time of the approval  
14 of the State application under this title;

15 “(B) the average State matching require-  
16 ment for all States is \$2 for every \$8 of Fed-  
17 eral funds provided under the allocation (aver-  
18 age Federal matching rate for all States of 80  
19 percent); and

20 “(C) no State shall have a matching re-  
21 quirement that is less than \$1 for every \$9 of  
22 Federal funds provided under the allocation  
23 (maximum Federal matching rate of 90 per-  
24 cent).

1           “(2) DONATIONS.—A participating State may  
 2       elect to accept a donation of funds, services, or  
 3       equipment for a State program under this title from  
 4       individuals and entities in the private sector. A State  
 5       shall ensure that any such donations from individ-  
 6       uals and for-profit entities do not result in a conflict  
 7       of interest in terms of the State giving preference to  
 8       the individual or entity related to the awarding of  
 9       contracts for a program under this title or for any  
 10      other State or Federally funded health programs not  
 11      covered by this Act.

12           “(3) NO REQUIREMENT.—With respect to  
 13      amounts deposited in the State trust fund under  
 14      subsection (a)(1)(C), such funds shall not be subject  
 15      to the matching requirements of paragraph (1) un-  
 16      less such funds are deposited for the purposes de-  
 17      scribed in sections 2732, 2735, and 2753.

18   **“SEC. 2703. EXCESS AND INSUFFICIENT FUNDS IN TRUST**  
 19           **FUNDS.**

20           “(a) AVAILABILITY OF UNALLOCATED FUNDS.—

21           “(1) NATIONAL TRUST FUND.—With respect to  
 22      amounts remaining in the Trust Fund after the Sec-  
 23      retary makes the allocations required under section  
 24      2701 or otherwise provides grants under this title  
 25      for a fiscal year, such amounts shall remain in the

1 Trust Fund and be available for use in subsequent  
2 years.

3 “(2) STATE TRUST FUNDS.—With respect to  
4 amounts remaining in the trust fund of a participat-  
5 ing State after allocations or expansions in eligibility  
6 are made for a fiscal year under this title, such  
7 amounts shall remain in the State trust fund and  
8 may not be transferred back to the Trust Fund.

9 “(b) INSUFFICIENT FEDERAL FUNDS.—

10 “(1) IN GENERAL.—If the Secretary determines  
11 that amounts contained in the Trust Fund for a fis-  
12 cal year are not sufficient to make allocations under  
13 section 2701, or to otherwise carry out this title, the  
14 Secretary shall notify the Advisory Council. Not  
15 later than 60 days after receipt of a notification  
16 under this paragraph, the Advisory Council shall  
17 recommend to the Secretary strategies to correct the  
18 insufficiency of funds.

19 “(2) RECOMMENDATIONS BY COUNCIL.—Under  
20 paragraph (1), the Advisory Council may rec-  
21 ommend—

22 “(A) the generation of additional sources  
23 of revenue for the Trust Fund;

24 “(B) an adjustment of the State matching  
25 requirements under section 2702(b);



1           “(C) an adjustment in the range or nature  
2 of the health benefits provided under part B;

3           “(D) an adjustment in the cost sharing re-  
4 quirements for families under part B;

5           “(E) a decrease in the amount or number  
6 of grants awarded under part F; or

7           “(F) other measures as determined appro-  
8 priate by the Council.

9           “(3) IMPLEMENTING LEGISLATION.—Not later  
10 than 60 days after receipt of recommendations  
11 under paragraph (1), the Secretary shall prepare  
12 and submit to Congress, appropriate implementing  
13 legislation that incorporates one or more of such rec-  
14 ommendations, if determined appropriate by the  
15 Secretary.

16          “(c) INSUFFICIENT STATE FUNDS.—

17           “(1) IN GENERAL.—If the chief executive offi-  
18 cer of a participating State determines that the  
19 State does not have sufficient funds in the State  
20 trust fund to meet the requirements of this title for  
21 a fiscal year, the chief executive officer may petition  
22 the Secretary for additional funds. Not later than 90  
23 days after receipt of a petition under this subsection  
24 the Secretary shall determine whether to provide the

1 State with additional funds or a loan from the Trust  
2 Fund.

3 “(2) PROHIBITION.—The Secretary may not  
4 transfer any additional funds to a State under para-  
5 graph (1) if the Secretary determines that the State  
6 mismanaged funds, failed to prevent foreseeable fis-  
7 cal problems, or failed to control fraud and abuse.

8 **“Part B—Eligibility and Enrollment**

9 **“SUBPART I—ELIGIBILITY**

10 **“SEC. 2710. ELIGIBILITY OF INDIVIDUALS.**

11 “(a) IN GENERAL.—To be eligible to receive benefits  
12 or services under this title an individual shall—

13 “(1) be a—

14 “(A) child who is under the age of 7 years,  
15 regardless of the income or health insurance  
16 status of the child or his or her parents, or an  
17 older child (up to 21 years or age) if the Sec-  
18 retary has expanded the program on a national  
19 basis or the State in which the child resides has  
20 expanded the State program to encompass such  
21 older children; or

22 “(B) pregnant woman who is not insured  
23 (or who if insured, has no pregnancy-related  
24 benefits) through the employer of the woman or  
25 the family’s employer (in compliance with the

1           Pregnancy Discrimination Act of 1978), regard-  
2           less of the income status of the woman; and

3           “(2) be a United States citizen or a citizen of  
4           another country legally residing in the United  
5           States.

6           “(b) CERTAIN INDIVIDUALS NOT ELIGIBLE.—A child  
7           or pregnant woman shall not be eligible to participate in  
8           the program established under this title if such child or  
9           pregnant woman, during the 6-month period ending on the  
10          date on which such individual desires to participate, was  
11          covered under an employer-based health plan, and such  
12          coverage was dropped by the employer.

13          “(c) DEFINITION.—As used in subsection (a)(2), the  
14          term ‘citizen of another country legally residing in the  
15          United States’ means any of the following:

16               “(1) An alien lawfully admitted for permanent  
17               residence (within the meaning of section 101(a)(20)  
18               of the Immigration and Nationality Act).

19               “(2) An alien granted work authorization by  
20               the Immigration and Naturalization Service.

21               “(3) An alien permanently residing in the Unit-  
22               ed States under color of law, including (but not lim-  
23               ited to) any of the following:

1           “(A) An alien who is admitted as a refugee  
2           under section 207 of the Immigration and Na-  
3           tionality Act.

4           “(B) An alien who is granted asylum  
5           under section 208 of such Act.

6           “(C) An alien whose deportation is with-  
7           held under section 243(h) of such Act.

8           “(D) An alien who is admitted for tem-  
9           porary residence under section 210, 210A, or  
10          245A of such Act.

11          “(E) An alien who has been paroled into  
12          the United States under section 212(d)(5) of  
13          such Act for an indefinite period or who has  
14          been granted extended voluntary departure,  
15          temporary protected status, or deferred en-  
16          forced departure.

17          “(F) An alien who is the spouse or unmar-  
18          ried child under 21 years of age of a citizen of  
19          the United States, or the parent of such a citi-  
20          zen if the citizen is over 21 years of age, and  
21          with respect to whom an application for adjust-  
22          ment to lawful permanent residence is pending.

23          “(G) An alien within such other classifica-  
24          tion of aliens permanently residing under color  
25          of law for purposes of this title as the Secretary

1           may establish by regulation. Such regulation  
 2           shall include categories of such aliens who are  
 3           included in regulations as in effect on the date  
 4           of the enactment of this Act under title XIX of  
 5           the Social Security Act and other categories  
 6           within a public health priority.

7           “(4) An alien not otherwise covered under this  
 8           subsection who the State elects to consider eligible.  
 9           A State shall ensure that Federal funds provided  
 10          under this title are not used to provide coverage for  
 11          aliens under this paragraph.

12   **“SEC. 2711. ELECTION OF ELIGIBILITY.**

13          “(a) COVERAGE OF CHILDREN UNDER OTHER FED-  
 14          ERAL PROGRAMS.—

15               “(1) IN GENERAL.—An eligible individual de-  
 16          scribed in section 2710(a)(1)(A) who receives bene-  
 17          fits or services under—

18                       “(A) the Civilian Health and Medical Pro-  
 19                       gram of the Uniformed Services (CHAMPUS),  
 20                       as defined in section 1073(4) of title 10, United  
 21                       States Code;

22                       “(B) chapter 17 of title 38, United States  
 23                       Code; or

24                       “(C) a health program of the Indian  
 25                       Health Service;

1       may elect to continue to use such services or elect  
2       to enroll in a certified plan under this title.

3           “(2) MEDICAID.—An eligible individual de-  
4       scribed in section 2710(a)(1)(A) who receives bene-  
5       fits or services under title XIX of the Social Security  
6       Act shall, on the date on which the State program  
7       of the participating State in which such individual  
8       resides provides for open enrollment, be automati-  
9       cally enrolled in a certified plan of such individuals  
10      choice under the State program of the participating  
11      State which such individual resides in.

12          “(3) STATE PROGRAMS.—In the case of an eli-  
13      gible individual described in section 2710(a)(1)(A)  
14      who resides in a State-supervised care setting or who  
15      does not live with his or her parents, such child shall  
16      be enrolled in a certified plan by the State agency  
17      or guardian that has been awarded the temporary or  
18      permanent custody of the child unless there is an  
19      otherwise more appropriate, specially designed  
20      health care system for such a child.

21          “(b) COVERAGE OF PREGNANT WOMEN UNDER  
22      OTHER FEDERAL PROGRAMS.—

23           “(1) IN GENERAL.—An eligible individual de-  
24      scribed in section 2710(a)(1)(B) who receives bene-  
25      fits or services under—

1           “(A) the Civilian Health and Medical Pro-  
2           gram of the Uniformed Services (CHAMPUS),  
3           as defined in section 1073(4) of title 10, United  
4           States Code;

5           “(B) chapter 17 of title 38, United States  
6           Code; or

7           “(C) a health program of the Indian  
8           Health Service;  
9           shall not be eligible for coverage under a certified  
10          plan under this title.

11          “(2) MEDICAID.—An eligible individual de-  
12          scribed in section 2710(a)(1)(B) who receives bene-  
13          fits or services under title XIX of the Social Security  
14          Act shall, on the date on which the State program  
15          of the participating State in which such individual  
16          resides provides for open enrollment, be automati-  
17          cally enrolled in a certified plan of such individuals  
18          choice under the State program of the participating  
19          State which such individual resides in.

20          “(c) ENROLLMENT IN CERTIFIED PLANS.—In the  
21          case of an eligible individual who elects or is automatically  
22          enrolled in a State program under this title, all privileges  
23          (such as choice of certified plans) and responsibilities  
24          (such as payment of premiums or copayments) accorded  
25          to their families or themselves under this title shall apply.

1 **“SEC. 2712. ELIGIBLE HEALTH PLANS AND PROVIDERS.**

2 “A health plan or health care provider that is licensed  
3 and credentialed, or otherwise legally authorized by the  
4 State in which such plan or provider operates, to provide  
5 health services of a type described in this title, under the  
6 respective rules and regulations of the State, shall be eligi-  
7 ble to participate in the State program under this title  
8 if such plan or provider meets all applicable Federal and  
9 State requirements under this title.

10 **“SUBPART II—ENROLLMENT**

11 **“SEC. 2715. ENROLLMENT OF ELIGIBLE PERSONS.**

12 “(a) NATIONAL OPEN ENROLLMENT PERIOD.—Not  
13 later than 30 days after the effective date, the Secretary  
14 shall establish a national annual open enrollment period  
15 to be held during a month that shall be designated as ‘Na-  
16 tional Healthy Mothers, Healthy Children Month’. During  
17 such enrollment period, an eligible child may be enrolled  
18 in a certified plan operating in the State in which such  
19 individual resides in accordance with the enrollment re-  
20 quirements of the State.

21 “(b) ESTABLISHMENT OF ENROLLMENT SYSTEM.—

22 “(1) IN GENERAL.—Not later than 30 days  
23 after the approval of a State program under section  
24 2731, the State shall establish a system for the en-  
25 rollment of all eligible individuals residing within the  
26 State in a certified plan under this title. Such enroll-



1       ment system shall be designed to minimize, to the  
2       maximum extent practicable, any barriers that may  
3       exist to prevent enrollment. All applicants shall be  
4       presumed to be eligible until the State has deter-  
5       mined otherwise.

6               “(2) METHOD OF ENROLLMENT.—The enroll-  
7       ment process established under paragraph (1) shall  
8       be reasonably convenient, efficient, and provide for  
9       enrollment through a wide range of methods. At a  
10      minimum, such process shall provide for enrollment  
11      through the mail, telephone (via a toll free number),  
12      and in person.

13             “(c) ENROLLMENT MATERIALS.—

14               “(1) IN GENERAL.—Under a process estab-  
15      lished under subsection (b), a State shall ensure that  
16      enrollment materials are made available through  
17      health care providers, health provider organizations,  
18      hospitals, health clinics, at facilities that provide  
19      health and nutrition services to children and women,  
20      and from State and local government health offices.

21               “(2) ESSENTIAL DATA.—The Secretary, in con-  
22      sultation with the States and representatives of cer-  
23      tified plans, shall develop essential data elements for  
24      the establishment and use by participating States of  
25      a standardized enrollment form that shall not exceed

1       one page in length. The Secretary may utilize or  
2       permit such States to utilize additional data collec-  
3       tion instruments for the purpose of assessing and  
4       improving State programs so long as such instru-  
5       ments are not a requirement for enrollment in a cer-  
6       tified plan.

7       “(d) PROCESSING OF APPLICATIONS.—

8               “(1) IN GENERAL.—Not later than 30 days  
9       after the date on which an application for enrollment  
10      in a certified plan is submitted to a State by or on  
11      behalf of an eligible individual, the State shall proc-  
12      ess and render a final decision with respect to the  
13      application. Approval of such an application shall be  
14      dependent on eligibility and income verification by  
15      the State. Income verification mechanisms and re-  
16      quirements shall be developed by the State in ac-  
17      cordance with guidelines prescribed by the Secretary.

18              “(2) WAIVER.—A participating State may elect  
19      to waive the income verification requirements for  
20      families who are already subject to similar require-  
21      ments under other appropriate Federal or State pro-  
22      grams or in other situations determined appropriate  
23      by the State.

24              “(3) NOTIFICATION.—Not later than 30 days  
25      after the date on which an application for enrollment

1 is approved under paragraph (1), the State shall no-  
2 tify the family and the relevant certified plan of the  
3 approval and the expected annual premium contribu-  
4 tion of the family, the first payment of which must  
5 be received by the plan or the State within 30 days  
6 of such notification.

7 “(e) TIME OF ENROLLMENT.—

8 “(1) IN GENERAL.—An eligible child shall be  
9 enrolled, or change enrollment, in a certified plan  
10 during the national annual open enrollment period.

11 “(2) PREGNANT WOMAN.—An eligible pregnant  
12 woman may enroll in a certified plan at any time  
13 after the diagnosis of pregnancy is confirmed by a  
14 physician or qualified health professional. A woman  
15 may also enroll in a certified plan in order to con-  
16 firm her pregnancy. Except as otherwise provided in  
17 subsection (f)(1), a pregnant woman enrolled in a  
18 certified plan under this section may not change  
19 such enrollment.

20 “(3) SURCHARGE.—

21 “(A) IN GENERAL.—Except as provided in  
22 paragraph (4), with respect to an eligible indi-  
23 vidual who does not enroll in a certified plan  
24 during, or who elects to change the plan in  
25 which such individual is enrolled outside of, the

1 national open enrollment period, the participat-  
2 ing State involved may assess a late enrollment  
3 surcharge in an amount determined appropriate  
4 by the State.

5 “(B) WAIVER.—A State may grant a waiv-  
6 er of any enrollment surcharges if the applicant  
7 or applicant’s family can demonstrate that the  
8 applicant or was out-of-State during the open  
9 enrollment period or for other unavoidable and  
10 legitimate reasons as determined appropriate by  
11 the State, including sudden loss of health cov-  
12 erage due to unemployment, divorce, and finan-  
13 cial crisis.

14 “(4) ENROLLMENT OF NEWBORNS.—A partici-  
15 pating State shall provide a family with the oppor-  
16 tunity to enroll the newborn children of such family  
17 in a certified plan prior to or at the time of the de-  
18 livery (through the hospital or birthing center) of  
19 such children. To avoid a surcharge under para-  
20 graph (2), a newborn must be enrolled in a certified  
21 plan prior to birth or within 30 days after birth or  
22 during the open enrollment period.

23 “(f) PLAN CHOICE AND TERMINATION OF ENROLL-  
24 MENT.—

1           “(1) PLAN CHOICE.—As part of an enrollment  
2 application, the family shall indicate the choice of  
3 certified plan. A family with a child enrolled in a  
4 certified plan may at any time elect to change enroll-  
5 ment in plans and such new enrollment shall become  
6 effective on the first day of the next open enrollment  
7 period. A family that desires to change certified  
8 plans at a time that is not within the open enroll-  
9 ment period may do so but shall be subject to a sub-  
10 stantial surcharge to be imposed by the State. An  
11 enrolled pregnant woman who elects to change plans  
12 shall be subject to a similar surcharge. The State  
13 shall not impose a surcharge on a family with an en-  
14 rolled child or on a pregnant woman if the change  
15 of certified plans is due to the family moving to an-  
16 other area not served by the current plan, in the  
17 case of a plan withdrawing from a market area, or  
18 for other justifiable and legitimate reasons as deter-  
19 mined by the State.

20           “(2) PERIOD OF ENROLLMENT.—The period  
21 during which enrollment in a certified plan shall be  
22 effective shall—

23                   “(A) in the case of an eligible child, not be  
24 less than 1 year; and

1           “(B) in the case of a pregnant woman, be  
2           for the duration of the pregnancy and eligible  
3           post-partum period.

4           “(3) PROHIBITION ON WAITING PERIODS.—A  
5           certified plan may not impose a waiting period with  
6           respect to the provision of covered health services  
7           under the plan. Access to such services shall be ef-  
8           fective immediately upon the date on which the en-  
9           rollment application is submitted.

10          “(4) PROVISION OF SERVICES.—Upon the sub-  
11          mission of an application for enrollment during an  
12          initial point-of-service visit, a certified plan shall  
13          provide covered health services to the applicant indi-  
14          vidual if the individual declares that such individual  
15          is not otherwise enrolled in a certified plan under  
16          this title and the individual reasonably appears to be  
17          of an eligible age. The provision of such services  
18          shall continue until such time as the State has noti-  
19          fied the plan that the applicant is not eligible under  
20          this title. The State shall impose a surcharge, in an  
21          amount to be determined appropriate by the State,  
22          for enrollment at the point-of-service outside of the  
23          open enrollment period. A State may elect to directly  
24          compensate a certified plan for services provided to  
25          individuals who are subsequently determined to be

1 ineligible, or permit such plans to factor in the esti-  
2 mated costs of providing services to such individuals  
3 in their rate negotiations with the State.

4 **“SEC. 2716. TRANSITION FROM ELIGIBILITY.**

5 “(a) ELIGIBLE CHILD.—

6 “(1) TERMINATION OF SUBSIDIES.—With re-  
7 spect to an eligible child enrolled in a certified plan  
8 who attains the age of seven years during the term  
9 of enrollment under the plan, premium subsidies  
10 under this title for such plan shall terminate on the  
11 date on which the term of enrollment terminates.  
12 The plan in which the child is enrolled shall continue  
13 to provide coverage for such child for an indefinite  
14 period if the full unsubsidized premium and  
15 copayments for such plan are paid.

16 “(2) PREEXISTING CONDITIONS.—With respect  
17 to an eligible child, a certified plan may not exclude  
18 coverage for preexisting conditions. If an eligible  
19 child elects to terminate coverage under a certified  
20 plan after the seventh birthday of the child and en-  
21 roll in another health plan or in an employer-pro-  
22 vided health plan that provides similar benefits to  
23 employee dependents, the plan or employer shall ac-  
24 cept the child into the plan and may not exclude cov-  
25 erage for any preexisting conditions.

1       “(b) ELIGIBLE PREGNANT WOMAN.—With respect to  
 2 an eligible pregnant woman enrolled in a certified plan,  
 3 coverage for health benefits under the plan shall terminate  
 4 on the date that is 2 months after the date of the end  
 5 of the pregnancy. If the woman was covered under a  
 6 health plan or employer-based health plan (without preg-  
 7 nancy-related benefits) immediately prior to enrollment in  
 8 the certified plan under the State program, the previous  
 9 health plan or employer shall readmit the woman into the  
 10 plan with no exclusions for preexisting or pregnancy-relat-  
 11 ed conditions at a cost comparable to the cost paid prior  
 12 to enrollment in the certified plan.”.

13 **SEC. 202. COMPREHENSIVE HEALTH BENEFITS AND COST**  
 14 **SHARING REQUIREMENTS.**

15       (a) FINDINGS.—Congress finds the following:

16           (1) Children and pregnant women, as develop-  
 17 ing individuals with a wide spectrum of health care  
 18 needs, should receive comprehensive health services.  
 19 Prevention and adequate treatment of health condi-  
 20 tions early in life are necessary to avoid more seri-  
 21 ous or long-term health conditions later in life. Com-  
 22 prehensive health services are necessary to ensure  
 23 that the spectrum of physical and mental health care  
 24 needs are met during childhood and that children



1 have the opportunity to develop fully into healthy,  
2 productive members of society.

3 (2) Children with disabilities or chronic health  
4 conditions require a complex array of health serv-  
5 ices. In many States, chronic and long-term health  
6 services for these children are separated from other  
7 essential health services, often resulting in seg-  
8 mented, discontinuous health care. A partnership in-  
9 volving families, State and Federal governments,  
10 and the private sector should be promoted to help  
11 ensure that all health services for children with dis-  
12 abilities or chronic health conditions will be coordi-  
13 nated, integrated, and continuous.

14 (3) Competing health plans should be required  
15 to offer and price at least one standard benefits  
16 package. A standard benefits package should—

17 (A) permit families to adequately evaluate  
18 and select among health plans;

19 (B) provide families who move to another  
20 State with continuous and uniform coverage;

21 (C) permit participating health plans to  
22 compete on a level playing field;

23 (D) facilitate the integration of health  
24 plans among neighboring States;

1 (E) eliminate administrative complexity for  
2 plans that serve multiple States;

3 (F) eliminate the expense and duplication  
4 of effort associated with each State developing  
5 its own benefits package; and

6 (G) minimize the problems of selective en-  
7 rollment of healthy individuals and adverse se-  
8 lection of high risk individuals by competing  
9 plans.

10 (4) All families should contribute toward their  
11 own or their children's health care. By contributing,  
12 families are more likely to develop a sense of owner-  
13 ship and responsibility for the health care delivery  
14 system. In addition, the family's contribution rep-  
15 resents an investment in the success of the program  
16 and increases the likelihood that families will fully  
17 participate in ensuring that children and pregnant  
18 women receive comprehensive, high quality health  
19 care. To ensure that family contributions toward  
20 health care are affordable for all families, the ex-  
21 pected family contribution should be based on the  
22 family's ability to pay.

23 (5) It is in the national interest that all chil-  
24 dren and pregnant women receive adequate health  
25 services. Therefore, all families should receive finan-

1        cial assistance to enroll children and pregnant  
 2        women in a health plan. Financial incentives for all  
 3        families encourage families of all income levels to  
 4        participate in the same program, thus averting a  
 5        multi-tier health care delivery system.

6        (b) AMENDMENT.—Title XXVII of the Public Health  
 7        Service Act (as added by section 201) is amended by add-  
 8        ing at the end thereof the following new part:

9        **“Part C—Comprehensive Health Benefits and Cost**  
 10        **Sharing Requirements**

11        **“SUBPART I—COMPREHENSIVE HEALTH**  
 12        **BENEFITS**

13        **“SEC. 2721. COMPREHENSIVE HEALTH BENEFITS PACKAGE.**

14        “(a) DEVELOPMENT OF PACKAGE.—

15                “(1) IN GENERAL.—Not later than 180 days  
 16        after the date of enactment of this title, the Sec-  
 17        retary, in consultation with health care professionals  
 18        and health-related organizations determined appro-  
 19        priate by the Secretary and in accordance with para-  
 20        graph (2), shall develop a comprehensive benefits  
 21        package for both children and pregnant women.  
 22        Such benefits packages shall be based on the general  
 23        categories of benefits described in section 2722.

1           “(2) CONSULTATION.—In developing a com-  
2       prehensive benefits package under paragraph (1),  
3       the Secretary shall, at a minimum, consult with—

4           “(A) in the case of a benefits package for  
5       children, the American Academy of Pediatrics,  
6       the Association of Maternal and Child Health  
7       Programs, and the American Dental Associa-  
8       tion; and

9           “(B) in the case of a benefits package for  
10      pregnant women, the American College of Ob-  
11      stetricians and Gynecologists and the Associa-  
12      tion of Maternal and Child Health Programs.

13          “(3) PERIODICITY SCHEDULES.—To the extent  
14      practicable, the comprehensive benefits packages de-  
15      veloped under paragraph (1) shall contain periodicity  
16      schedules for preventive services.

17          “(b) LIMITATIONS.—In developing the comprehensive  
18      benefits packages under subsection (a), the Secretary shall  
19      ensure that such packages are consistent with the follow-  
20      ing:

21          “(1) The actuarial equivalent of the specific  
22      comprehensive benefits packages shall exceed the av-  
23      erage actuarial equivalent of all health benefits of-  
24      fered to children and pregnant women by all States

1 under the program under title XIX of the Social Se-  
2 curity Act on the date of enactment of this title.

3 “(2) The actuarial equivalent of the specific  
4 comprehensive benefits packages shall not exceed the  
5 actuarial equivalent of health benefits offered to chil-  
6 dren and pregnant women in the State or States  
7 providing the most generous benefits package under  
8 title XIX of the Social Security Act for such popu-  
9 lations on the date of enactment of this title.

10 “(c) COPAYMENTS.—In addition to developing the  
11 comprehensive benefits package under subsection (a), the  
12 Secretary, in consultation with health professional organi-  
13 zations determined appropriate by the Secretary, shall de-  
14 termine the types of services under the benefits package  
15 that shall be subject to utilization copayments under sec-  
16 tion 2727. The Secretary shall ensure that preventive serv-  
17 ices are exempt from any utilization copayment require-  
18 ments.

19 “(d) REVIEW AND MODIFICATION.—Not later than  
20 2 years after the development of the comprehensive bene-  
21 fits package under subsection (a), and every 2 years there-  
22 after, the Secretary, in consultation with relevant health  
23 professional organizations and the Advisory Council, shall  
24 review and revise the comprehensive benefits package. The  
25 Secretary shall ensure that any revision of the comprehen-

1 sive benefits package is consistent with changes in the age  
2 group of eligible children, standard medical practice, new  
3 technologies, emerging health problems and health care  
4 needs. If children seven years of age or older are eligible  
5 on a national basis or in a participating State prior to  
6 2 years after the development of the initial benefits pack-  
7 age, the Secretary shall revise the benefits package as nec-  
8 essary by the methods specified in this section.

9       “(e) REQUIREMENTS OF CERTIFIED PLAN.—To be  
10 eligible to operate as a certified plan under this title, the  
11 plan shall provide coverage for or directly provide the  
12 items or services required under the applicable comprehen-  
13 sive benefits package. A certified plan may not offer cov-  
14 erage to eligible individuals under this title if such plan  
15 does not ensure the provision of all items or services re-  
16 quired under the comprehensive benefits package. Cer-  
17 tified plans may provide a benefits package that is more  
18 generous than the comprehensive benefits package re-  
19 quired by the Secretary.

20       “(f) EXCEPTION TO REQUIREMENTS OF CERTIFIED  
21 PLAN.—In a case in which a State has determined that  
22 no participating health plan is able to provide for or cover  
23 all the services in the comprehensive benefits package, or  
24 the State has determined that certain services are most  
25 effectively delivered by providers other than participating

1 health plans, the State may elect to develop an alternative  
 2 mechanism, such as entering into agreements with other  
 3 providers, to provide for or cover specific services. In all  
 4 cases the State shall ensure that all services covered under  
 5 the comprehensive benefits package are of high quality  
 6 and are fully coordinated and integrated.

7 **“SEC. 2722. GENERAL CATEGORIES OF HEALTH BENEFITS.**

8       “(a) IN GENERAL.—At a minimum, the following  
 9 general categories of health benefits shall be included in  
 10 the comprehensive benefits package:

11           “(1) CHILDREN.—With respect to the com-  
 12 prehensive benefits package for children (from birth  
 13 through the child’s seventh birthday) the package  
 14 shall require coverage for—

15           “(A) preventive services (including immu-  
 16 nizations as recommended by the Advisory  
 17 Committee on Immunization Practices, well  
 18 baby/child care, routine medical examinations  
 19 and check ups, recommended screening tests,  
 20 dental prophylaxis and examinations, and pre-  
 21 ventive health counseling and health education);

22           “(B) ambulatory care;

23           “(C) laboratory services;

24           “(D) prescription drugs;

25           “(E) inpatient care;

1           “(F) vision, audiology and aural rehabilita-  
2           tive, and other rehabilitative services (including  
3           prescription eyeglasses and hearing aids);

4           “(G) durable medical equipment (including  
5           orthoptics and prosthetics);

6           “(H) dental care, excluding orthodontic  
7           care;

8           “(I) mental health and substance abuse  
9           services;

10          “(J) long-term and chronic health care  
11          services;

12          “(K) special health care services for chil-  
13          dren with disabilities or chronic health condi-  
14          tions;

15          “(L) occupational, physical, and res-  
16          piratory therapy, and speech-language pathol-  
17          ogy services; and

18          “(M) investigational treatments (limited to  
19          participation in a clinical investigation as part  
20          of an approved research trial as defined by the  
21          Secretary, services or other items related to the  
22          trial that are normally paid for by other fund-  
23          ing sources need not be covered);

24          “(2) PREGNANT WOMEN.—With respect to the  
25          comprehensive benefits package for pregnant women



1 (from diagnosis of pregnancy through 60 days after  
2 the end of the pregnancy) the package shall require  
3 coverage for—

4 “(A) maternity care (including prenatal,  
5 delivery, and postpartum care, preventive serv-  
6 ices such as routine examinations and check  
7 ups, recommended immunizations and screening  
8 tests, family planning services, and preventive  
9 health counseling including nutrition and health  
10 education);

11 “(B) ambulatory care;

12 “(C) laboratory services;

13 “(D) prescription drugs;

14 “(E) inpatient care;

15 “(F) inpatient hospital and nonhospital de-  
16 livery services;

17 “(G) mental health and substance abuse  
18 services;

19 “(H) other pregnancy- or nonpregnancy-re-  
20 lated health conditions determined appropriate  
21 by the Secretary; and

22 “(I) investigational treatments (limited to  
23 participation in a clinical investigation as part  
24 of an approved research trial as defined by the  
25 Secretary, and services or other items related to

1           the trial normally paid for by other funding  
2           sources need not be covered).

3           “(3) EXTENSION OF PERIOD OF COVERAGE.—

4           With respect to the comprehensive benefits package  
5           for pregnant women, a participating State may elect  
6           to extend coverage of selected health services under  
7           the benefits package beyond the 60-day postpartum  
8           period if Federal funds are not used for such addi-  
9           tional coverage.

10          “(b) LIMITATIONS AND REDUCTION IN COVERAGE.—

11           “(1) INITIAL IMPLEMENTATION.—During the  
12           2-year period that begins on the date of the imple-  
13           mentation of this title, the items and services cov-  
14           ered under the comprehensive benefits package may  
15           not be subject to any duration or scope limitation.  
16           During such period, a certified plan may not require  
17           any cost sharing that is not permitted under this  
18           title.

19           “(2) REDUCTION IN COVERAGE.—In years sub-  
20           sequent to the period referred to in paragraph (1),  
21           the Secretary, in consultation with professional orga-  
22           nizations determined appropriate by the Secretary  
23           and the Advisory Council, may implement utilization  
24           limitations or other limitations on items or services

1 covered under the comprehensive benefits package  
2 on a national basis if—

3 “(A) the Secretary determines that such  
4 limitations are necessary for the solvency of the  
5 program established under this title; and

6 “(B) additional funds are not appropriated  
7 and deposited into the Trust Fund.

8 “(3) ALTERNATIVES.—Prior to implementing  
9 limitations under paragraph (2), the Secretary shall  
10 consider alternatives such as minimizing administra-  
11 tive costs, increasing cost sharing requirements, and  
12 increasing Federal or State funding requirements. In  
13 no case may the Secretary subject required preven-  
14 tive services to such limitations.

15 “(c) PERIODICITY SCHEDULES.—A certified plan  
16 may not be required to provide coverage for the provision  
17 of items or services under the comprehensive benefits  
18 package that are greater in frequency than that required  
19 under the periodicity schedules contained in the benefits  
20 package. Notwithstanding the preceding sentence, a cer-  
21 tified plan shall provide coverage for the provision of any  
22 items or services, within the general scope of the com-  
23 prehensive benefits package, that are medically necessary  
24 or appropriate for children and pregnant women.

1       “(d) RULES OF CONSTRUCTION.—Nothing in this  
2 title shall be construed as—

3               “(1) limiting the ability of a participating State  
4 or a certified plan to provide items or services in ad-  
5 dition to those required under the comprehensive  
6 benefits package, so long as Federal funds are not  
7 used to pay for the provision of such additional serv-  
8 ices;

9               “(2) limiting the ability of eligible individuals to  
10 obtain items or services in addition to those required  
11 under the comprehensive benefits package so long as  
12 Federal funds are not used to pay for the provision  
13 of such additional services.

14 A certified plan may provide coverage for extra contrac-  
15 tual services and items determined to be appropriate by  
16 the plan and individual or family involved.

17       “(e) ENCOURAGING THE PROVISION OF BENEFITS.—  
18 In the interest of ensuring that all children in the United  
19 States receive comprehensive health services, it is the  
20 sense of Congress that employer-based, self-insured, and  
21 other health plans not participating in the program estab-  
22 lished under this title be encouraged to provide com-  
23 prehensive benefits to children and pregnant women simi-  
24 lar to those required in this title.

1     **“SUBPART II—COST SHARING REQUIREMENTS**

2     **“SEC. 2725. PRINCIPLES OF COST SHARING.**

3         “(a) GENERAL PRINCIPLE.—All families who partici-  
4     pate in the program established under this title shall be  
5     required to contribute toward the cost of health care for  
6     themselves or their children. Such required contribution  
7     shall be in the form of a required premium or a copayment  
8     requirement. In no case may a certified plan or participat-  
9     ing State require the payment of deductibles.

10       “(b) GENERAL STATE REQUIREMENTS AND LIMITA-  
11     TIONS.—

12           “(1) STATE SPECIFIC COST SHARING.—A par-  
13     ticipating State may elect to develop State specific  
14     cost sharing requirements that differ from those  
15     specified in this section so long as such requirements  
16     are consistent with the guidelines developed by the  
17     Secretary that ensure that—

18           “(A) all families participating in the pro-  
19     gram contribute toward the program cost;

20           “(B) all families participating in the pro-  
21     gram receive premium subsidies;

22           “(C) all families participating in the pro-  
23     gram pay the same copayment for services; and

24           “(D) coverage under the program is af-  
25     fordable for families at all income levels.

1           “(2) FUNDING LIMITATION.—State specific cost  
2       sharing requirements developed under paragraph (1)  
3       shall not result in any increase in overall Federal  
4       funding obligations in excess of such obligations that  
5       would exist under the cost sharing schedules de-  
6       scribed in this title.

7           “(3) ANNUAL CONTRIBUTION.—In all partici-  
8       pating States, the annual family contribution under  
9       this title shall not be less than \$10 per eligible child  
10      and \$20 per eligible pregnant woman.

11          “(4) REQUIREMENTS APPLICABLE WITH RE-  
12      SPECT TO LOW INCOME FAMILIES.—

13           “(A) PROHIBITION.—A participating State  
14      may not require cost sharing under a certified  
15      plan, for families with annual incomes that are  
16      less than 150 percent of the Federal poverty  
17      level, in an amount that exceeds the applicable  
18      cost sharing amount described in this title.

19           “(B) ADDITIONAL SUBSIDIES.—A partici-  
20      pating State may elect to provide additional  
21      premium or copayment subsidies under certified  
22      plans for families with annual incomes that are  
23      less than 400 percent of the Federal poverty  
24      level if there are sufficient funds in the State

1 trust fund to cover the costs of such subsidies  
2 and if no additional Federal funds are used.

3 “(C) MONITORING IMPACT OF COST SHAR-  
4 ING.—Participating States, in consultation with  
5 certified plans, shall monitor the impact of cost  
6 sharing requirements (premiums and  
7 copayments) on low income families and ensure  
8 that any cost sharing requirements are not sig-  
9 nificant barriers that prevent such families  
10 from enrolling in a certified plan or from ob-  
11 taining medically appropriate care. An analysis  
12 of the impact of cost sharing on low income  
13 families shall be presented to the Secretary as  
14 part of the annual quality assessment and im-  
15 provement plan of the State under section  
16 2741.

17 **“SEC. 2726. PREMIUMS AND PREMIUM SUBSIDY.**

18 “(a) PAYMENT.—

19 “(1) FAMILY PORTION.—A family enrolled in a  
20 certified plan shall be responsible for paying the  
21 family portion of the premium for coverage under  
22 such plan. Premium payments under a certified plan  
23 may be made directly to the plan or to the State (if  
24 the State elects to accept such payments on behalf

1 of the certified plan) on a monthly, quarterly, or  
2 other basis as determined by the State.

3 “(2) SUBSIDY PORTION.—Upon the final ap-  
4 proval of an enrollment application under this title,  
5 a participating State shall transfer to the certified  
6 plan in which the family is enrolled an amount of  
7 funds equal to the amount of the applicable pre-  
8 mium subsidy under subsection (d) with respect to  
9 the family that is enrolled in the plan.

10 “(3) LIMITATION.—If the annual premium con-  
11 tribution under a certified plan for an eligible fam-  
12 ily, after the application of the appropriate premium  
13 subsidy, exceeds the maximum annual family con-  
14 tribution amount for such family under section  
15 2728, such excess amount shall be paid by the State  
16 directly to the plan.

17 “(b) ANNUAL LIMITATION.—All eligible families in a  
18 participating State, regardless of their incomes, shall re-  
19 ceive a subsidy (in an amount determined under sub-  
20 section (d)) with respect to the premiums required for en-  
21 rollment in certified plans. The annual premium amount  
22 that a certified plan may require an eligible family to pay  
23 under this title shall be equal to—

24 “(1) the annual per capita premium that is ne-  
25 gotiated by the State with the certified plan; less



1           “(2) the annual premium subsidy amount pro-  
2       vided by the State.

3 In no case shall the annual premium subsidy amount be  
4 greater than the annual per capita premium negotiated  
5 with the certified plan.

6       “(c) BASIS FOR DETERMINATION OF SUBSIDY.—  
7 With respect to cases in which multiple certified plans are  
8 available in a geographic area or in which certified plans  
9 offers additional benefit package options at an additional  
10 cost, the amount of the premium subsidy shall be deter-  
11 mined based on the lowest priced certified plan that is  
12 available in the area. A family shall be responsible for the  
13 payment of any premium amounts not covered by the pre-  
14 mium subsidy under this title. In addition, any such pre-  
15 mium amounts that result from the selection of more ex-  
16 pensive plans shall not be credited toward the maximum  
17 annual family contribution under section 2728.

18       “(d) SUBSIDY AMOUNT.—

19           “(1) IN GENERAL.—The annual premium sub-  
20       sidy amount to be applied to the premiums assessed  
21       with respect to an eligible family enrolled in certified  
22       plan under this title shall be equal to the product  
23       of—

24                   “(A) the amount of the annual per capita  
25       premium for the certified plan involved; and

1           “(B) the annual premium subsidy percent-  
2           age for the family as determined under para-  
3           graph (2).

4           “(2) ANNUAL PREMIUM SUBSIDY PERCENT-  
5           AGE.—The annual premium subsidy percentage  
6           under this paragraph shall be—

7           “(A) with respect to an eligible family with  
8           an annual gross income that is less than 50  
9           percent of the Federal poverty level, 99 percent;

10          “(B) with respect to an eligible family with  
11          an annual gross income that is equal to between  
12          50 and 149 percent of the Federal poverty  
13          level, 97.5 percent reduced by 1.5 percentage  
14          points for each 10 percent increase in the an-  
15          nual gross income of the family in excess of 49  
16          percent of the Federal poverty level;

17          “(C) with respect to an eligible family with  
18          an annual gross income that is equal to between  
19          150 and 299 percent of the Federal poverty  
20          level, 80 percent reduced by 4 percentage points  
21          for each 10 percent increase in the annual gross  
22          income of the family in excess of 149 percent  
23          of the Federal poverty level;

24          “(D) with respect to an eligible family with  
25          an annual gross income that is equal to between

1           300 and 399 percent of the Federal poverty  
2           level, 22.5 percent reduced by 1.5 percentage  
3           points for each 10 percent increase in the an-  
4           nual gross income of the family in excess of 299  
5           percent of the Federal poverty level; and

6           “(E) with respect to an eligible family with  
7           an annual gross income that is equal to 400  
8           percent or more of the Federal poverty level, 5  
9           percent.

10   **“SEC. 2727. UTILIZATION COPAYMENTS.**

11       “(a) GENERAL COPAYMENT.—With respect to items  
12   or services designated by the Secretary under section  
13   2721(c), and provided under a certified plan, the plan  
14   shall assess an eligible family a \$5 copayment for the pro-  
15   vision of such items or services to such family. Preventive  
16   services shall be exempt from such copayment require-  
17   ment.

18       “(b) HIGHER COPAYMENTS.—In addition to offering  
19   certified plans with a \$5 copayment, a participating State  
20   may elect to permit the offering of certified plans that  
21   have higher copayment requirements. With respect to such  
22   plans, the copayment amount shall be the same for eligible  
23   families at all income levels and the minimum copayment  
24   amount shall be \$5. Premium subsidies for an eligible  
25   family who selects a high copayment plan may not exceed

1 the subsidy determined to be applicable to an similarly sit-  
 2 uated eligible family enrolled in a certified plan with a \$5  
 3 utilization copayment requirement.

4 “(c) LIMITATION.—An eligible family may not be re-  
 5 quired to make utilization copayments under this section  
 6 after the annual contributions of the family (including pre-  
 7 miums and copayments) have exceeded the maximum an-  
 8 nual family contribution for the family under section  
 9 2728.

10 **“SEC. 2728. MAXIMUM ANNUAL FAMILY CONTRIBUTION.**

11 “(a) FAMILIES WITH ELIGIBLE CHILDREN.—

12 “(1) IN GENERAL.—With respect to a family  
 13 with an eligible child enrolled in a certified plan  
 14 under this title, the maximum annual family con-  
 15 tribution that such family may be required to pay  
 16 under this title (including premiums and  
 17 copayments) for such eligible child shall be—

18 “(A) with respect to an eligible family with  
 19 an annual gross income that is less than 50  
 20 percent of the Federal poverty level, \$10;

21 “(B) with respect to an eligible family with  
 22 an annual gross income that is between 50 per-  
 23 cent and 149 percent of the Federal poverty  
 24 level, \$15 increased by \$5 for each 10 percent

1           increase in the annual gross income of the fam-  
2           ily in excess of 49 percent;

3           “(C) with respect to an eligible family with  
4           an annual gross income that is between 150  
5           percent and 299 percent of the Federal poverty  
6           level, \$110 increased by \$50 for each 10 per-  
7           cent increase in the annual gross income of the  
8           family in excess of 149 percent;

9           “(D) with respect to an eligible family with  
10          an annual gross income that is between 300  
11          percent and 399 percent of the Federal poverty  
12          level, \$960 increased by \$150 for each 10 per-  
13          cent increase in the annual gross income of the  
14          family in excess of 299 percent; and

15          “(E) with respect to an eligible family with  
16          an annual gross income that is equal to 400  
17          percent or more of the Federal poverty level,  
18          \$3,000.

19          “(2) FAMILIES WITH MULTIPLE CHILDREN.—  
20          With respect to an eligible family that enrolls more  
21          than one eligible child in a certified plan under this  
22          title, the maximum annual family contribution that  
23          such family may be required to pay under paragraph  
24          (1) shall be—

1           “(A) in the case of a family enrolling two  
2           eligible children, twice the amount under para-  
3           graph (1) applicable to the family based on  
4           family income;

5           “(B) in the case of a family enrolling three  
6           eligible children, twice the amount under para-  
7           graph (1) applicable to the family based on  
8           family income increased by an amount equal to  
9           40 percent of such amount; and

10          “(C) in the case of a family enrolling four  
11          or more eligible children, twice the amount  
12          under paragraph (1) applicable to the family  
13          based on family income increased by an amount  
14          equal to 80 percent of such amount.

15          “(b) FAMILIES WITH PREGNANT WOMAN.—With re-  
16          spect to a family with an eligible pregnant woman enrolled  
17          in a certified plan under this title, the maximum annual  
18          family contribution that such family may be required to  
19          pay under this title (including premiums and copayments)  
20          for such pregnant woman shall be—

21               “(1) with respect to an eligible family with an  
22               annual gross income that is less than 50 percent of  
23               the Federal poverty level, \$20;

24               “(2) with respect to an eligible family with an  
25               annual gross income that is between 50 percent and

1       149 percent of the Federal poverty level, \$30 in-  
2       creased by \$10 for each 10 percent increase in the  
3       annual gross income of the family in excess of 49  
4       percent;

5       “(3) with respect to an eligible family with an  
6       annual gross income that is between 150 percent  
7       and 299 percent of the Federal poverty level, \$220  
8       increased by \$100 for each 10 percent increase in  
9       the annual gross income of the family in excess of  
10      149 percent;

11      “(4) with respect to an eligible family with an  
12      annual gross income that is between 300 percent  
13      and 399 percent of the Federal poverty level, \$1,820  
14      increased by \$200 for each 10 percent increased in  
15      the annual gross income of the family in excess of  
16      299 percent; and

17      “(5) with respect to an eligible family with an  
18      annual gross income that is equal to 400 percent or  
19      more of the Federal poverty level, \$5,000.

20      “(c) FAMILIES WITH ELIGIBLE CHILDREN AND  
21      PREGNANT WOMEN.—In the case of an eligible family  
22      with both an eligible child and eligible pregnant woman  
23      enrolled in a certified plan, the maximum annual family  
24      contribution that such family may be required to pay

1 under this title (including premiums and copayments)  
2 shall be equal to the sum of—

3 “(1) the amount determined under subsection  
4 (a) with respect to the family involved; and

5 “(2) the amount determined under subsection  
6 (b) with respect to the family involved.

7 “(d) ADJUSTMENT FOR SUBSEQUENT YEARS.—The  
8 maximum annual family contribution amounts described  
9 in subsections (a) and (b) shall remain in effect during  
10 the first 2 fiscal years in which the program under this  
11 title is in effect. In subsequent years, the maximum annual  
12 family contribution amounts under such subsections shall  
13 be increased annually (and adjusted to the nearest \$5 in-  
14 crement) based on the indexes used by the Secretary to  
15 calculate funding allocations under section 2701(b)(1)(B).

16 “(e) LIMITATION AND CALCULATIONS.—

17 “(1) PROHIBITION ON PREMIUM INCREASES.—  
18 The amount of the premium contribution or  
19 copayments assessed to an eligible family enrolled in  
20 certified plans under this title shall not be increased  
21 during the 1-year period beginning on the date of  
22 such enrollment.

23 “(2) PERMISSIBLE ADJUSTMENTS.—The  
24 amount of the premium subsidy and the maximum  
25 annual family contribution applied under this part



1 with respect to an eligible family enrolled in a cer-  
2 tified plan may be adjusted during the 1-year period  
3 beginning on the date of enrollment, if the family  
4 can demonstrate a decrease in income of an amount  
5 to permit such family to qualify for a larger pre-  
6 mium subsidy. In such case, the premium contribu-  
7 tion for the family shall be recalculated based on the  
8 larger premium

9 “(3) APPLICATION FOR RECONCILIATION.—A  
10 family that desires to have an income reconciliation  
11 adjustment made under paragraph (2) shall apply  
12 directly to the State. Such a family shall be limited  
13 to one such income reconciliation adjustment during  
14 each year in which the family is enrolled in a cer-  
15 tified plan. In cases where premium subsidies have  
16 been subject to income reconciliation under this sub-  
17 section, the State shall appropriately adjust its pay-  
18 ments to the respective certified plan.”.

19 **SEC. 203. STATE PROGRAM DEVELOPMENT AND ADMINIS-**  
20 **TRATION.**

21 Title XXVII of the Public Health Service Act (as  
22 added by section 201 and amended by section 202) is fur-  
23 ther amended by adding at the end thereof the following  
24 new part:

**“Part D—State Program Development and  
Administration**

**“SEC. 2731. APPLICATION AND DATE OF IMPLEMENTATION.**

(a) IN GENERAL.—A State that desires to participate in the program established under this title shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including the State strategic plan under subsection (b). To be approved by the Secretary, an application shall contain assurances that the State program to be established under this title will fully implement coverage for eligible children and pregnant women by January 1, 2000. The Secretary may approve the application of a State that desires to implement a program under this title as early as January 1, 1996.

“(b) STATE STRATEGIC PLAN.—

“(1) SUBMISSION.—A State that desires to participate in the program established under this title shall submit, as part of their application under subsection (a), an initial 5-year strategic plan.

“(2) PLAN GUIDELINES.—Not later than 90 days after the date of enactment of this title, the Secretary, in consultation with the Maternal and Child Health Bureau, shall develop and make available specific guidelines to assist States in preparing and submitting an acceptable strategic plan under

1       this subsection. At a minimum, such guidelines shall  
2       require that a strategic plan—

3               “(A) describe the current health status of  
4       the target population in the State;

5               “(B) describe the short- and long-term  
6       health objectives of the State, including time  
7       schedules for the achievement of such objec-  
8       tives;

9               “(C) describe the performance and out-  
10      come measures and mechanisms to be used by  
11      the State for monitoring health indicators;

12              “(D) describe specific details of the pro-  
13      posed structure of the State program, analyses  
14      of at least one alternative structure considered,  
15      and cost estimates;

16              “(E) in the case of a State that proposes  
17      a structure that is different from that described  
18      in this title, contain a comparative analysis of  
19      the State’s proposed structure, including an  
20      analysis of achievement of the objectives of the  
21      State under this title and the program costs;  
22      and

23              “(F) contain an outline of the manner in  
24      which coverage for all eligible individuals resid-  
25      ing within the State will be achieved within the

1 first 5 years in which the program is in oper-  
2 ation in the State.

3 Such plan may incorporate elements required under  
4 current State application submitted under title V of  
5 the Social Security Act.

6 “(3) CRITERIA FOR EVALUATION.—Not later  
7 than 90 days after the date of enactment of this  
8 title, the Secretary, in consultation with Maternal  
9 and Child Health Bureau, shall develop and make  
10 available specific criteria that will serve as the basis  
11 for the evaluation and approval of State strategic  
12 plans by the Secretary.

13 “(c) REQUIREMENTS.—In addition to otherwise  
14 meeting the requirements of this title, a State program  
15 under an application submitted under this section shall—

16 “(1) ensure that affordable coverage is available  
17 for comprehensive, high quality health care for all  
18 children under seven years of age and all pregnant  
19 women residing within the State within a time pe-  
20 riod determined to be reasonable by the Secretary;

21 “(2) ensure that each certified plan operating  
22 in the State provide the comprehensive benefits  
23 package required under section 2721;

1           “(3) be consistent with the principle that all  
2       families contribute towards their own or their chil-  
3       dren’s health care;

4           “(4) ensure that the State is responsible for the  
5       certification of health plans, entering into agree-  
6       ments with certified plans to provide health services,  
7       and negotiating premiums with certified plans on be-  
8       half of eligible individuals;

9           “(5) have a quality assessment and improve-  
10      ment program in effect under section 2741;

11          “(6) have a utilization review program in effect  
12      under section 2742;

13          “(7) fulfill health information system require-  
14      ments under sections 2743 and 2744; and

15          “(8) have a program in effect for preventing  
16      and controlling fraud and abuse under section 2745.

17      “(d) DECISION BY SECRETARY.—Not later than 90  
18      days after the date on which the Secretary receives the  
19      application of a State under this section, the Secretary  
20      shall notify the State concerning the final decision of the  
21      Secretary with respect to such application. If the Sec-  
22      retary fails to approve the State application, the Secretary  
23      shall assist the State in modifying such application and  
24      provide specific guidance on the manner in which to gain  
25      approval. A State that has submitted an application that

1 is not approved may submit another application in the fol-  
 2 lowing fiscal year.

3       “(e) STATE INNOVATION AND PROGRAM FLEXIBIL-  
 4 ITY.—A State with an application approved under this  
 5 section shall, at a minimum, implement a State program  
 6 that is consistent with the guidelines, principles and re-  
 7 quirements described in this title. In developing and imple-  
 8 menting such a program, a State is encouraged to be inno-  
 9 vative and propose structures or a blend of structures for  
 10 the State program that are different from that described  
 11 in this title. Such structures may include, modifications  
 12 of existing State or Federal programs, capitated pro-  
 13 grams, fee-for-service programs, subsidy programs for the  
 14 individual purchase of health insurance, and programs  
 15 where the State is the direct payer for services. Such  
 16 structures, however, must be shown to be or expected to  
 17 be, as effective or more effective in meeting the program  
 18 objectives of this title and containing program costs as the  
 19 structure described in this title. A State may establish a  
 20 State-specific program or participate in a program with  
 21 neighboring States.

22 **“SEC. 2732. SPECIAL STATUS STATES.**

23       “(a) PETITION.—

24               “(1) EXISTING PROGRAMS.—A State that deter-  
 25 mines that the existing health care program of the

1 State provides, or that expects such provision to be  
2 made within 1 year from the date of a petition  
3 under this subsection, affordable, comprehensive,  
4 high quality, health care coverage for all children  
5 under seven years of age and pregnant women resid-  
6 ing within the State, may petition the Secretary to  
7 designate such State as a special status State.

8 “(2) PARTICIPATING STATES.—A participating  
9 State that determines that the program of the State  
10 under this title has achieved the objective described  
11 in paragraph (1), may, in their annual quality as-  
12 sessment and improvement plan, petition the Sec-  
13 retary to designate such State as a special status  
14 State.

15 “(3) APPROVAL OF PETITIONS.—The Secretary  
16 shall approve a petition under this subsection if the  
17 Secretary determines that the petitioning State has  
18 demonstrated that at least 95 percent of all eligible  
19 children and pregnant women residing in the State  
20 are covered either under the State program or under  
21 other sources of health insurance. The Secretary  
22 shall make a determination on the State petition  
23 under this section within 90 days of the date on  
24 which the Secretary receives the petition.

25 “(b) EFFECT OF DESIGNATION.—

1           “(1) EXPANSION OF SERVICES.—A State des-  
 2           ignated as a special status State under subsection  
 3           (a) may submit a proposal to the Secretary for the  
 4           expansion of health services provided under this title  
 5           to children under seven years of age and pregnant  
 6           women, or to expand comparable coverage with re-  
 7           spect to health services for older children up to age  
 8           21. Such expanded eligibility shall be consistent with  
 9           the requirements and guidelines under this title.

10           “(2) MATCHING REQUIREMENTS.—The match-  
 11           ing requirement in section 2702 shall apply to ex-  
 12           panded eligibility programs under paragraph (1).

13   **“SEC. 2733. STATES WITH MEDICAID WAIVERS.**

14           “A State that has in effect a waiver under section  
 15   1115 or 1915 of the Social Security Act shall be eligible  
 16   to be a participating State under this title. If such a State  
 17   desires to become a participating State, the State program  
 18   shall be subject to all program guidelines and require-  
 19   ments under this title. A State with a waiver described  
 20   in this section may submit a petition under section 2732  
 21   to be designated as a special status State.

22   **“SEC. 2734. DEVELOPMENT GRANTS FOR STATE PRO-**  
 23           **GRAMS.**

24           “(a) IN GENERAL.—Upon the approval of a State ap-  
 25   plication under section 2731, the Secretary, from the



1 Trust Fund, shall award a one-time program development  
2 grant to the State.

3 “(b) AMOUNT.—The amount of a grant awarded  
4 under subsection (a), shall be determined based on a for-  
5 mula developed by the Secretary.

6 “(c) USE OF FUNDS.—Amounts received under a  
7 grant under this section shall be used to develop and im-  
8 plement the approved State program and State strategic  
9 plan, including the development of community-based  
10 health networks and health plans.

11 **“SEC. 2735. EXPANSION OF ELIGIBILITY.**

12 “(a) DETERMINATION BY SECRETARY.—

13 “(1) IN GENERAL.—Not later than the date  
14 that is 2 years after the date of enactment of this  
15 title, and every 2 years thereafter, the Secretary, in  
16 consultation with the Advisory Council, shall deter-  
17 mine whether sufficient funding and public support  
18 exists to enable the Secretary to expand the cat-  
19 egories of individuals eligible for coverage under this  
20 title to include additional groups of children up to  
21 21 years of age.

22 “(2) REQUIREMENT.—If the Secretary deter-  
23 mines under paragraph (1) that sufficient funding  
24 and public support exists to permit the expansion of  
25 individuals eligible for coverage to include additional

1 age groups on a national basis, the Secretary shall  
2 implement guidelines to provide for such expansion.

3 “(3) RECOMMENDATIONS.—If the Secretary de-  
4 termines under paragraph (1) that public support  
5 exists for the expansion of individuals eligible for  
6 coverage but that funding is insufficient, the Sec-  
7 retary may recommend to Congress that appropriate  
8 legislation be considered to expand the program  
9 under this title to expand such eligibility.

10 “(b) PETITION BY STATES.—

11 “(1) IN GENERAL.—A participating State that  
12 does not qualify as a special status State under sec-  
13 tion 2732 may, in the annual evaluation report of  
14 the State, petition the Secretary to expand the State  
15 program to provide coverage for additional age  
16 groups if the State determines that sufficient funds  
17 are available in the State trust fund or if additional  
18 State funds are deposited into the State trust fund.  
19 The Secretary shall make a final determination on  
20 a State request for expanded eligibility within 90  
21 days of the date of receiving the State petition.

22 “(2) MATCHING REQUIREMENT.—The Sec-  
23 retary shall make available to a State, with respect  
24 to additional funds deposited into the State trust  
25 fund for the purpose of expanding eligibility under

1 paragraph (1) to children not eligible for coverage  
2 on a national basis, Federal funds in an amount  
3 equal to the amount of State funds so deposited.

4 “(3) FUNDING.—An approved petition under  
5 this section may be considered by the Secretary for  
6 Federal funding only after funds are provided to all  
7 participating States with approved programs and ap-  
8 proved expanded eligibility programs of special sta-  
9 tus States are allocated.

10 **“SEC. 2736. FAILURE OF STATE TO ADMINISTER A PRO-**  
11 **GRAM IN COMPLIANCE WITH TITLE.**

12 “(a) FAILURE TO COMPLY.—If the Secretary deter-  
13 mines that the State program of a participating State fails  
14 to meet the requirements of this title, including require-  
15 ments relating to cost containment and the prevention and  
16 control of fraud and abuse, the Secretary shall notify the  
17 State. Upon receiving such a notification, the State shall  
18 be required to demonstrate that the State has made a rea-  
19 sonable effort to address program deficiencies.

20 “(b) ADMINISTRATION BY SECRETARY.—If the Sec-  
21 retary determines that a State has failed to demonstrate  
22 a reasonable effort under subsection (a), the Secretary  
23 may elect to directly administer, or enter into agreement  
24 with a non-State government organization to administer,  
25 the State program.

1       “(c) PREMIUMS AND COPAYMENTS.—Premiums and  
2 copayments under this title for a State program adminis-  
3 tered by a Federal or non-State government entity may  
4 not be in excess of the premiums and copayments assessed  
5 under this title.

6       “(d) FUNDING AND MATCHING REQUIREMENT.—  
7 The costs of administering a State program under sub-  
8 section (b) may not be in excess of that amount that would  
9 be provided to the State under this title. A State shall  
10 continue to provide matching funds in accordance with  
11 section 2702.

12       **“SEC. 2737. LIMITS ON STATE AND FEDERAL ADMINISTRA-**  
13                               **TIVE COSTS.**

14       “‘The Secretary and a participating State shall, to the  
15 maximum extent practicable, ensure that the administra-  
16 tive complexity and costs of the program implemented  
17 under this title are minimized. A participating State may  
18 expend not to exceed 5 percent of the amount in the State  
19 trust fund in any fiscal year for the administration of the  
20 State program. The State shall be responsible for any ad-  
21 ministrative costs in excess of such 5 percent.

1 **“Part E—Ensuring Quality, Establishing Information**  
2 **Systems, and Preventing Abuse**

3 **“SEC. 2741. ANNUAL QUALITY ASSESSMENT AND IMPROVE-**  
4 **MENT PLANS.**

5 “(a) REQUIREMENT.—Not later than 1 year after the  
6 date on which the Secretary approves the application of  
7 a State under section 2731, and annually thereafter, the  
8 State, in coordination with existing State programs under  
9 title V of the Social Security Act, shall prepare and submit  
10 to the Secretary a quality assessment and improvement  
11 plan.

12 “(b) GUIDELINES FOR PLANS.—Not later than 180  
13 days after the date of enactment of this title, the Sec-  
14 retary, in consultation with the Maternal and Child Health  
15 Bureau, shall develop and submit to participating States  
16 guidelines concerning the elements that must be included  
17 in the annual quality assessment and improvement plan  
18 of such participating State. At a minimum, such guide-  
19 lines shall require a State plan to include an assessment  
20 of the—

21 “(1) progress the State had made towards en-  
22 suring health care coverage for all eligible individ-  
23 uals residing within the State;

24 “(2) cost containment measures implemented  
25 under the State program;

1           “(3) assurances provided for ensuring the provi-  
2           sion of high quality health care;

3           “(4) impact within the State on the health sta-  
4           tus of the target populations (including process and  
5           outcome measures and objectives);

6           “(5) the financial and administrative aspects of  
7           the State program; and

8           “(6) any proposed modifications to the State  
9           program.

10          “(c) RESPONSE BY SECRETARY.—Not later than 90  
11       days after the date on which the Secretary has received  
12       the quality assessment and improvement plan of a partici-  
13       pating State, the Secretary shall provide a response to  
14       such State concerning such plan. Such response shall in-  
15       clude the determination of the Secretary with respect to  
16       any proposed modifications in the State program as con-  
17       tained in the plan. Evaluations of the State program by  
18       the Secretary shall be based on an assessment of the per-  
19       formance of the State program in meeting program objec-  
20       tives rather than on the specific methods used to achieve  
21       such objectives.

22       **“SEC. 2742. NATIONAL ADVISORY COUNCIL FOR MOTHERS’**  
23       **AND CHILDREN’S HEALTH.**

24          “(a) ESTABLISHMENT.—The Secretary shall estab-  
25       lish an advisory council to be known as the “National Ad-

1 visory Council for Mothers' and Children's Health'' to pro-  
 2 vide advice to the Secretary concerning the administration  
 3 of and modifications to programs established under this  
 4 title.

5       “(b) MEMBERSHIP.—

6               “(1) IN GENERAL.—The Advisory Council shall  
 7 be composed of 11 individuals to be appointed by the  
 8 President in consultation with the Secretary, not  
 9 later than 90 days after the date of the enactment  
 10 of this title, with the advice and consent of the Sen-  
 11 ate. Members of the Advisory Council shall be ap-  
 12 pointed on the basis of their experience and exper-  
 13 tise.

14               “(2) REPRESENTATION.—In appointing the  
 15 members of the Advisory Council under paragraph  
 16 (1), the Secretary shall ensure the appropriate rep-  
 17 resentation of—

18                       “(A) pediatricians, obstetricians, and other  
 19 health care providers;

20                       “(B) consumers;

21                       “(C) health policy experts;

22                       “(D) State and local government health of-  
 23 ficials;

24                       “(E) public health and maternal and child  
 25 health professionals;

1           “(F) experts in population-based health in-  
2           formation systems;

3           “(G) experts in health promotion and dis-  
4           ease prevention;

5           “(H) health care managers and econo-  
6           mists;

7           “(I) medical ethicists;

8           “(J) health care industry representatives;  
9           and

10          “(K) other related disciplines as deter-  
11          mined appropriate by the Secretary.

12          In appointing such members, the Secretary shall en-  
13          sure that not less than three members are health  
14          care providers and not less than three members are  
15          representatives of consumers.

16          “(3) ENROLLED INDIVIDUALS.—After the expi-  
17          ration of the initial terms of the members of the Ad-  
18          visory Council appointed to represent consumers,  
19          subsequent consumer representatives shall be from  
20          families currently enrolled in a certified plan.

21          “(4) CHAIRPERSON.—In appointing members of  
22          the Advisory Council, the Secretary shall designate  
23          one member to serve as chairperson and one member  
24          to serve as vice chairperson. A Chairperson shall not  
25          serve in that capacity for more than one full term.



1           “(5) TERMS.—

2                 “(A) IN GENERAL.—A member of the Ad-  
3           visory Council shall be appointed for a term of  
4           2 years, except that of the members first ap-  
5           pointed six such members shall be appointed for  
6           a term of 3 years.

7                 “(B) LIMITATION.—No member of the Ad-  
8           visory Council may serve more than two com-  
9           plete terms.

10           “(6) VACANCIES.—

11                 “(A) IN GENERAL.—A vacancy on the Ad-  
12           visory Council shall be filled in the manner in  
13           which the original appointment was made and  
14           shall be subject to any conditions which applied  
15           with respect to the original appointment.

16                 “(B) FILLING UNEXPIRED TERM.—An in-  
17           dividual chosen to fill a vacancy shall be ap-  
18           pointed for the unexpired term of the member  
19           replaced.

20           “(7) EXPIRATION OF TERMS.—The term of any  
21           member shall not expire before the date on which  
22           the member’s successor takes office.

23           “(8) EMPLOYMENT BY FEDERAL GOVERN-  
24           MENT.—An individual may not be appointed to the  
25           Advisory Council if such individual was employed by

1 the Federal Government at any time during the 1-  
2 year period prior to the appointment.

3 “(9) NO FINANCIAL INTEREST.—A member of  
4 the Advisory Council shall have no substantial finan-  
5 cial interest in any entity related to any issue to be  
6 addressed by the Council.

7 “(c) RESPONSIBILITIES.—

8 “(1) IN GENERAL.—The Advisory Council shall  
9 evaluate programs established under this title and  
10 provide advice to the Secretary concerning methods  
11 to improve the health of children and pregnant  
12 women. As part of such evaluation, the Advisory  
13 Council shall include an assessment of the impact of  
14 State programs under this title on the health status  
15 of children and pregnant women. Specifically, the  
16 Advisory Council shall evaluate and make rec-  
17 ommendations concerning—

18 “(A) items and services covered under the  
19 comprehensive benefits package;

20 “(B) State program cost sharing require-  
21 ments;

22 “(C) the allocation and management of  
23 funds from the Trust Fund;

24 “(D) eligibility and enrollment issues with  
25 respect to State programs;

1           “(E) standards for and the responsibilities  
2 of certified plans, at both the Federal and State  
3 level;

4           “(F) national assessment and quality im-  
5 provement program guidelines and utilization  
6 review program guidelines;

7           “(G) the development of pediatric and ma-  
8 ternal health care practice guidelines;

9           “(H) health care information systems and  
10 reporting requirements;

11           “(I) general State and Federal program  
12 administration; and

13           “(J) any other relevant matters deter-  
14 mined to be appropriate by the Advisory Coun-  
15 cil.

16           “(2) ANNUAL SUMMARY.—The Advisory Coun-  
17 cil shall prepare and submit to the Secretary an an-  
18 nual summary of the Council’s activities, analyses,  
19 and evaluations of State programs together with the  
20 recommendations of the Council for program im-  
21 provement.

22           “(d) MEETINGS.—

23           “(1) INITIAL MEETING.—Not later than 30  
24 days after the date on which all members of the Ad-

1       visory Council have been appointed, the Council shall  
2       hold its first meeting.

3           “(2) REGULAR MEETINGS.—The Advisory  
4       Council shall meet at the call of the Chairperson,  
5       but not less than four times each year.

6           “(3) QUORUM.—A majority of the members of  
7       the Advisory Council shall constitute a quorum, but  
8       a lesser number of members may hold hearings.

9           “(e) TASK FORCES.—The Advisory Council may es-  
10      tablish professional or technical task forces to carry out  
11      specific functions if the Council determines that appro-  
12      priate expertise is not otherwise available.

13          “(f) INFORMATION FROM FEDERAL AGENCIES.—The  
14      Secretary shall ensure that the Advisory Council has ac-  
15      cess to all necessary logistic, administrative, and financial  
16      support. Upon request of the chairperson of the Council,  
17      the head of each Federal department or agency shall fur-  
18      nish information to the Council.

19          “(g) ADVISORY COUNCIL PERSONNEL MATTERS.—

20           “(1) COMPENSATION.—Each member of the  
21      Advisory Council shall be compensated at a rate  
22      equal to the daily equivalent of the annual rate of  
23      basic pay prescribed for level IV of the Executive  
24      Schedule under section 5315 of title 5, United  
25      States Code, for each day (including travel time)

1 during which such member is engaged in the per-  
2 formance of the responsibilities of the Council.

3 “(2) TRAVEL EXPENSES.—The members of the  
4 Advisory Council shall be allowed travel expenses, in-  
5 cluding per diem in lieu of subsistence, at rates au-  
6 thorized for employees of agencies under subchapter  
7 I of chapter 57 of title 5, United States Code, while  
8 away from their homes or regular places of business  
9 in the performance of services for the Council.

10 “(h) REPORT TO CONGRESS.—If the Advisory  
11 Council—

12 “(1) irreconcilably differs with Secretary con-  
13 cerning major policy issues related to the program  
14 established under this title; or

15 “(2) has evidence that the Secretary is not ful-  
16 filling the responsibilities of the Secretary under this  
17 title to ensure affordable, comprehensive, high qual-  
18 ity health care coverage for all eligible individuals;  
19 the Council may prepare and submit to Congress a report  
20 concerning such matters.

1 **“SEC. 2743. NATIONAL QUALITY ASSESSMENT AND IM-**  
2 **PROVEMENT PROGRAM GUIDELINES AND**  
3 **UTILIZATION REVIEW PROGRAM GUIDE-**  
4 **LINES.**

5 “(a) NATIONAL QUALITY ASSESSMENT AND IM-  
6 PROVEMENT PROGRAM GUIDELINES.—

7 “(1) ESTABLISHMENT.—Not later than 1 year  
8 after the date of enactment of this title, the Sec-  
9 retary, in consultation with relevant governmental  
10 and non-governmental organizations as determined  
11 appropriate by the Secretary, shall develop national  
12 quality assessment and improvement program guide-  
13 lines for use by certified plans under this title.

14 “(2) REQUIREMENT.—The guidelines developed  
15 under paragraph (1) shall be consistent with the  
16 concepts and principles established under the Con-  
17 tinuous Quality Improvement/Total Quality Manage-  
18 ment programs.

19 “(b) NATIONAL UTILIZATION REVIEW PROGRAM  
20 GUIDELINES.—

21 “(1) ESTABLISHMENT.—Not later than 1 year  
22 after the date of enactment of this title, the Sec-  
23 retary, in consultation with relevant governmental  
24 and non-governmental organizations as determined  
25 appropriate by the Secretary, shall develop national

1 utilization review program guidelines for use by cer-  
2 tified plans under this title.

3 “(2) REQUIREMENTS.—The guidelines devel-  
4 oped under paragraph (1) shall, at a minimum, re-  
5 quire that a certified plan ensure that the following  
6 attributes are incorporated into the utilization review  
7 program of the plan:

8 “(A) The utilization review program is  
9 clearly documented in printed materials pro-  
10 vided to the enrolled individual.

11 “(B) That only qualified licensed or cer-  
12 tified health professionals with training or expe-  
13 rience in pediatric or obstetric care are used for  
14 specific case utilization reviews.

15 “(C) That individuals involved in specific  
16 case utilization reviews do not have a financial  
17 interest or incentive to deny or limit utilization.

18 “(D) That descriptions and protocols for  
19 utilization review are disclosed to enrollees, af-  
20 filiated providers, and appropriate State offi-  
21 cials upon demand, and that such descriptions  
22 and protocols protect proprietary business infor-  
23 mation.

1           “(E) That criteria for utilization review  
2           shall be based on sound scientific principles and  
3           standard medical practice.

4           “(F) That there is a mechanism for the  
5           regular evaluation and modification of the utili-  
6           zation review program.

7           “(c) GENERAL REQUIREMENTS.—The guidelines de-  
8           veloped under this section shall be specific with respect  
9           to pediatric and maternal health care delivery systems to  
10          the maximum extent practicable. Such guidelines shall be  
11          flexible and adaptable, and serve as the basis for the qual-  
12          ity assessment and improvement program and utilization  
13          review program of a certified plan.

14          “(d) CONSULTATION.—The Secretary, in developing  
15          guidelines under this section shall, at a minimum, consult  
16          with the National Committee on Quality Assurance, the  
17          National Association of Insurance Commissioners, private  
18          health care accreditation organizations, representatives of  
19          certified plans, and relevant maternal and child health  
20          care professional organizations.

21       **“SEC. 2744. NATIONAL HEALTH INFORMATION SYSTEMS**  
22                       **FOR MOTHERS AND CHILDREN.**

23          “(a) ESTABLISHMENT AND IMPLEMENTATION.—Not  
24          later than 1 year after the date of enactment of this title,  
25          the Secretary shall establish and implement a National



1 Health Information System for Mothers and Children.  
2 The Secretary, in consultation with States and representa-  
3 tives of certified plans, the Administrator of the Agency  
4 for Health Care Policy Research, the Administrator of the  
5 Health Resources and Services Administration, the Direc-  
6 tor of the Centers for Disease Control and Prevention, and  
7 the heads of other agencies or nongovernment organiza-  
8 tions as determined appropriate by the Secretary, shall de-  
9 velop specific data elements and operating procedures with  
10 respect to such Information System.

11 “(b) SUBMISSION OF DATA.—

12 “(1) ELECTRONIC FORM.— A participating  
13 State shall be responsible for ensuring that certified  
14 plans operating within the State submit the data re-  
15 quired under this title. Such data shall be transmit-  
16 ted to the Secretary. The State shall require that  
17 each certified plan operating within the State submit  
18 data to the Information System, as required by the  
19 Secretary under the policies of the System, in elec-  
20 tronic form.

21 “(2) SOFTWARE.—The Secretary shall develop  
22 and freely distribute to participating States, the  
23 computer software necessary to permit such States  
24 and certified plans to efficiently collect and transmit  
25 data to the Information System. A participating

1 State or certified plan may not be required to use  
2 such software if such State or plan is able to other-  
3 wise comply with the data collection and reporting  
4 requirements.

5 “(3) INTEGRATION OF DATA REPORTING RE-  
6 QUIREMENTS.—The Secretary, and each participat-  
7 ing State, shall, to the maximum extent practicable,  
8 integrate reporting requirements applicable to cer-  
9 tified plans under other Federal and State health  
10 programs with those established under this title to  
11 ensure that duplicative requirements are eliminated.

12 “(4) REASONABLE REQUIREMENTS.—The Sec-  
13 retary, and each participating State, shall ensure  
14 that, with respect to certified plans, the resources  
15 and time required to comply with the information re-  
16 quirements of the Secretary and State under this  
17 title are reasonable and not excessive.

18 “(5) MAINTENANCE OF RECORDS.—Any law of  
19 a participating State that requires that medical or  
20 health records, including billing information, be  
21 maintained in written, rather than electronic, form  
22 shall be satisfied if such records are maintained in  
23 a manner consistent with the Information System  
24 requirements developed by the Secretary under this  
25 section.

1       “(c) USE OF DATA.—Data received by the Informa-  
2 tion System from States and certified plans shall be used  
3 to—

4               “(1) monitor and evaluate certified plans;

5               “(2) monitor the health status of the popu-  
6 lations served by such plans;

7               “(3) support core public health functions;

8               “(4) increase capacity for health policy and pro-  
9 gram evaluation, planning, and research;

10              “(5) provide for quality assessment and im-  
11 provement activities;

12              “(6) improve provider coordination and access  
13 to care; and

14              “(7) carry out other activities related to the  
15 public health.

16       “(d) PRIVACY.—

17              “(1) IN GENERAL.—To ensure the privacy of  
18 medical information provided under this title, the  
19 Secretary and each participating State shall imple-  
20 ment safeguards to prevent the unauthorized access  
21 of individuals or entities to medically confidential in-  
22 formation.

23              “(2) APPLICABILITY OF STATE LAWS.—A par-  
24 ticipating State shall ensure that State laws that  
25 protect medical confidentiality are applicable to data

1 collected by the State or a certified plan operating  
2 within the State under this title, except that such  
3 laws that interfere with the use of the data as re-  
4 quired under this title shall be preempted.

5 **“SEC. 2745. NATIONAL CHILDHOOD IMMUNIZATION**  
6 **DATABASE.**

7 “(a) ESTABLISHMENT.—In order to achieve the goal  
8 of providing age-appropriate immunization coverage for  
9 100 percent of the children in the United States, the Sec-  
10 retary shall establish a National Childhood Immunization  
11 Database as part of the Information System.

12 “(b) REQUIREMENTS.—

13 “(1) IN GENERAL.—As part of the data pro-  
14 vided under section 2744, a certified plan shall en-  
15 sure that the immunization records of all enrolled in-  
16 dividuals are updated as required under guidelines  
17 developed by the Secretary and the participating  
18 State involved. Such immunization record data shall  
19 be maintained in the database established under  
20 subsection (a). The Secretary shall, to the maximum  
21 extent practicable, ensure that the database contains  
22 accurate and up-to-date information concerning the  
23 immunization records of every child enrolled in a  
24 certified plan under this title.

1           “(2) APPLICATION TO ALL HEALTH PLANS.—  
2       All certified plans participating in a State program  
3       under this title and all other health plans that pro-  
4       vide coverage for 10,000 or more childhood immuni-  
5       zations per year that are not participating under  
6       this title but that are offered within a participating  
7       State, shall participate in the National Childhood  
8       Immunization Database.

9           “(3) AVAILABILITY OF INFORMATION.—The  
10      database established under subsection (a) shall en-  
11      sure that current immunization information is avail-  
12      able on a real time basis to health care providers  
13      who need such information to assess the appropriate  
14      immunization needs of their patients.

15          “(4) ACCESS.—

16               “(A) IN GENERAL.—Information in the  
17               database shall be accessible to the certified plan  
18               in which a child is enrolled electronically or  
19               through a toll free telephone number.

20               “(B) OTHER PLANS.—With respect to a  
21               child accessing a certified plan, other than the  
22               certified plan in which such child is enrolled,  
23               such accessed plan or the public health authori-  
24               ties involved may utilize the database to access  
25               the immunization record of the child if such ac-

1           cess is needed to assess the need for appro-  
2           priate immunization.

3           “(c) RULE OF CONSTRUCTION.—Nothing in this sec-  
4           tion shall be construed as preempting existing Federal or  
5           State laws concerning disease reporting or the reporting  
6           of other health-related data to local, State, and Federal  
7           health authorities.

8           **“SEC. 2746. PREVENTION, MONITORING, AND CONTROL OF**  
9                                   **FRAUD AND ABUSE.**

10          “(a) ESTABLISHMENT OF PROGRAM.—Not later than  
11       180 days after the date of enactment of this title, the Sec-  
12       retary, in consultation with the Attorney General, shall es-  
13       tablish a program and develop State guidelines for pre-  
14       venting, monitoring, and investigating fraud related to the  
15       program established under this title. Under such Federal  
16       program, the Secretary and the Attorney General shall  
17       provide assistance to participating States for the monitor-  
18       ing and control of fraud and abuse in the State programs,  
19       and in investigating and prosecuting individuals and cer-  
20       tified plans whose activities violate the provisions of this  
21       title, any law enacted in the administration of this title,  
22       or any act in violation of such laws that involve interstate  
23       activity.

24          “(b) STATE SYSTEMS.—

1           “(1) CERTIFICATION.—Prior to making an allo-  
2           cation to a participating State under section 2701,  
3           the Secretary shall certify that the State has estab-  
4           lished and implemented a Statewide system for pre-  
5           venting, monitoring, and investigating fraud and  
6           abuse that occurs within the State with respect to  
7           the State program.

8           “(2) REQUIREMENTS OF SYSTEM.—To be cer-  
9           tified under paragraph (1), a State system shall—

10               “(A) provide authority to State officials to  
11               prosecute individuals or certified plans for  
12               criminal violations of the provisions of this title  
13               or any law enacted to administer or enforce this  
14               title;

15               “(B) solicit and receive consumer feedback  
16               regarding compliance with requirements under  
17               the State program;

18               “(C) provide for the investigation of com-  
19               plaints of violations of requirements under the  
20               State program;

21               “(D) assist in the resolution of consumer  
22               complaints against certified plans;

23               “(E) have a formal mechanism for the  
24               sharing of information with and assisting the

1 Federal entity responsible for policing compli-  
2 ance with this title; and

3 “(F) prepare and submit to the Secretary  
4 and the Attorney General an annual report  
5 summarizing the activities under the State sys-  
6 tem.

7 “(3) INTEGRATION.—A State system estab-  
8 lished under this subsection may be integrated into  
9 existing State systems responsible for controlling  
10 fraud and abuse under the State program under title  
11 XIX of the Social Security Act.

12 “(c) PENALTIES.—

13 “(1) DEVELOPMENT OF LEGISLATIVE PRO-  
14 POSAL.—Not later than 180 days after the date of  
15 the enactment of this title, the Secretary, in con-  
16 sultation with the Attorney General, shall submit to  
17 the Congress a legislative proposal to modify or es-  
18 tablish civil and criminal penalties for fraud and  
19 abuse or for other violations by individuals and cer-  
20 tified plans related to the program establish under  
21 this title.

22 “(2) DATA.—Not later than 1 year after the  
23 date of enactment of this title, the Secretary, in con-  
24 sultation with the Attorney General, shall submit to  
25 the Congress a legislative proposal to modify or es-



1       tablish civil and criminal penalties for the unauthor-  
2       ized use of data collected under this title, including  
3       the sale or transfer of data for commercial use or  
4       use of data for illegal activities.

5           “(3) RECOVERY OF FUNDS.—Any funds recov-  
6       ered or fines collected under any civil or criminal ac-  
7       tions related to fraud and abuse under this title  
8       shall be deposited into the trust fund of the State  
9       or States in which the fraud and abuse occurred.  
10      Funds recovered on a national level shall be depos-  
11      ited into the Trust Fund.

12      “(d) PROHIBITION ON PARTICIPATION.—A certified  
13      plan, health care provider, or other individual or entity  
14      participating in the Federal program or a State program  
15      under this title, that has been found guilty of fraud or  
16      abuse in connection with activities under this title, shall  
17      be prohibited from participating in any manner in such  
18      Federal or a State program, for a period of not less than  
19      5 years. The Secretary may waive the 5-year limitation  
20      if the Secretary determines that there is a compelling rea-  
21      son to grant such waiver.

22      “(e) APPLICABILITY OF GUIDELINES.—Federal and  
23      State guidelines developed and implemented under this  
24      section shall be developed in recognition of the differences

1 among the various types of health plans, and be applicable  
2 to all health plans.”.

3 **SEC. 204. GRANTS TO IMPROVE THE HEALTH OF CHILDREN**  
4 **AND PREGNANT WOMEN.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) Access to individual health care services  
7 does not necessarily ensure the health of populations  
8 and communities. Population-based health activities  
9 that assess, monitor, and develop appropriate solu-  
10 tions to the spectrum of health-related problems in  
11 communities, and empower residents to participate  
12 in the decisionmaking process, need to be strength-  
13 ened. Such activities are the foundation for improv-  
14 ing the health of communities and ensuring the  
15 proper social environment for the development of  
16 children in these communities.

17 (2) Although preventive services are more cost  
18 effective compared to curative health services, only  
19 one percent of health expenditures are allocated for  
20 preventive health services. Core public health func-  
21 tions ensure that our communities and the environ-  
22 ment in which we live, including our air, water, and  
23 food, are reasonably safe, but these essential public  
24 health services remain widely misunderstood by the  
25 public and underfunded.

1           (3) Community programs and systems that sup-  
2       port access to health care, many of which are usu-  
3       ally beyond the mission or capacity of health plans,  
4       are essential in order to ensure that all children and  
5       pregnant women have access to health services. Ac-  
6       cess to health services should be improved by  
7       strengthening the primary care system, enhancing  
8       enabling services, and supporting school-based  
9       health programs.

10          (4) Health-related research has resulted in tre-  
11       mendous advances in scientific knowledge and have  
12       directly improved both the quality and length of life.  
13       However, despite well-documented accomplishments,  
14       biomedical, social science, public health, quality as-  
15       sessment, and other health-related research, con-  
16       tinue to be severely underfunded compared to other  
17       national expenditures. In addition, the application of  
18       telecommunications and computer technology to im-  
19       proving the delivery of health services needs to be  
20       encouraged.

21       (b) AMENDMENT.—Title XXVII of the Public Health  
22       Service Act (as added by section 201 and amended by sec-  
23       tions 202 and 203) is further amended by adding at the  
24       end thereof the following new part:

1   **“Part F—Grants to Improve the Health of Children**  
2                                   **and Pregnant Women**

3   **“SEC. 2751. ESTABLISHMENT OF PROGRAM AND ELIGIBLE**  
4                                   **ACTIVITIES.**

5       “(a) ESTABLISHMENT.—The Secretary shall estab-  
6   lish a program to award grants to States, institutions of  
7   higher education, and nonprofit entities to improve the ac-  
8   cess of children and pregnant women to health services,  
9   strengthen public health functions, enhance health-related  
10   research, and support other activities that improve the  
11   health of children and pregnant women.

12       “(b) ELIGIBLE ACTIVITIES.—A State, institution, or  
13   entity that receives a grant under subsection (a) shall use  
14   amounts provided under the grant for activities to—

15               “(1) increase the capacity of the primary care  
16       health system in the State involved, including the  
17       development of community-based health networks  
18       and plans;

19               “(2) develop and enhance enabling services;

20               “(3) increasing the access of children and preg-  
21       nant women to health services in rural and under-  
22       served areas, including the use of telecommuni-  
23       cations and computer technology (such as  
24       telemedicine and information systems);

25               “(4) support school-based health programs;

1           “(5) enhance core public health functions of  
2       State and local health departments;

3           “(6) support health promotion and disease pre-  
4       vention activities, including population- and commu-  
5       nity-based health assessments and interventions;

6           “(7) support biomedical, social science, health  
7       policy, and public health research activities;

8           “(8) support pediatric- and maternal-specific  
9       quality assessment and outcomes research to im-  
10      prove certified plan and program accountability, in-  
11      cluding quality assessments of services for children  
12      with disabilities and chronic health conditions;

13          “(9) develop and implement clinical practice  
14      guidelines; and

15          “(10) carry out activities related to improving  
16      the health of children and pregnant women.

17   All such activities shall be primarily targeted towards chil-  
18   dren (under 21 years of age) or pregnant women.

19          “(c) REQUIREMENTS FOR CERTAIN ACTIVITIES.—In  
20   awarding grants under this section, the Secretary shall en-  
21   sure that not less than 50 percent of the amounts awarded  
22   annually to States, universities, or other entities, be used  
23   to support activities that are not directly related to the  
24   delivery of health care services, including research, public

1 health, community health, and health promotion and dis-  
2 ease prevention activities.

3 “(d) ADMINISTRATION.—The Secretary may des-  
4 ignate an existing entity with the Department of Health  
5 and Human Services to administer the grant program es-  
6 tablished under this section. The Secretary shall ensure  
7 that, with respect to any amounts transferred from the  
8 Trust Fund under this part—

9 “(1) such amount are used solely to support  
10 grant awards under this part;

11 “(2) there shall be a full accounting of the use  
12 of such amounts;

13 “(3) current Federal grant funding of maternal  
14 and child health activities is maintained; and

15 “(4) all Federally-funded activities related to  
16 maternal and child health are coordinated and inte-  
17 grated to the maximum extent possible, and such ac-  
18 tivities are consistent with the strategic plan out-  
19 lined by the Secretary in section 2754.

20 **“SEC. 2752. ELIGIBILITY AND APPLICATION PROCESS.**

21 “(a) ELIGIBILITY.—To be eligible to receive a grant  
22 under section 2751, an entity shall—

23 “(1) be a participating State or an institution  
24 of higher education or other nonprofit entity located  
25 in a participating State;

1           “(2) prepare and submit to the Secretary an  
2           application in accordance with subsection (b).

3           “(b) APPLICATION.—An application under this sub-  
4           section shall—

5           “(1) be in such form, submitted in such man-  
6           ner, and contain such information as required by the  
7           Secretary;

8           “(2) provide assurance that the applicant entity  
9           will provide matching funds in accordance with sec-  
10          tion 2753; and

11          “(3) ensure that the applicant entity will other-  
12          wise comply with the requirements of this part.

13   **“SEC. 2753. MATCHING OF FEDERAL FUNDS AND STATE**  
14                   **MAINTENANCE OF EFFORT.**

15          “(a) IN GENERAL.—The Secretary may not award a  
16          grant to an entity eligible under section 2752(a) unless  
17          that entity agrees that, with respect to the costs to be in-  
18          curred by the entity in carrying out the program for which  
19          the allocation is provided, the entity will make available  
20          (directly or through donations from public or private enti-  
21          ties) non-Federal contributions in an amount equal to not  
22          less than \$1 for every \$9 of Federal funds provided under  
23          the allocation.

24          “(b) DONATIONS.—An eligible entity may elect to ac-  
25          cept a donation of funds, services, or equipment for activi-

1 ties under this part from individuals and entities in the  
 2 private sector. An eligible entity shall ensure that any such  
 3 donations from individuals and for-profit entities do not  
 4 result in a conflict of interest in terms of the entity giving  
 5 preference to the individual or entity related to the award-  
 6 ing of contracts for activities under this part.

7 “(c) MAINTENANCE OF EFFORT.—A participating  
 8 State receiving a grant under this part shall maintain  
 9 State expenditures for the activities undertaken under the  
 10 grant at a level that is not less than the level maintained  
 11 by the State for such activities in the year previous to the  
 12 year for which the grant is awarded.

13 **“SEC. 2754. DEVELOPMENT OF PRIORITY AREAS AND FUND-**  
 14 **ING CRITERIA.**

15 “(a) STRATEGIC PLAN.—

16 “(1) DEVELOPMENT.—Not later than 180 days  
 17 after the date of enactment of this title, the Sec-  
 18 retary shall develop a 5-year strategic plan that out-  
 19 lines the national priorities for maternal and child  
 20 health, including—

21 “(A) the short- and long-term objectives of  
 22 Federal child and maternal programs;

23 “(B) priority areas for funding under this  
 24 part;



1           “(C) specific criteria for determining the  
2           merit of funding proposals;

3           “(D) standards for monitoring and evalu-  
4           ating activities (including outcome and perform-  
5           ance measures) funded under this part; and

6           “(E) administrative procedures for proc-  
7           essing grant proposals.

8           “(2) REVIEW OF EXISTING PROGRAMS.—The  
9           strategic plan developed under paragraph (1) shall  
10          include a specific review of existing Federal pro-  
11          grams related to maternal and child health and de-  
12          velop national priorities for research, population-  
13          based activities, and other activities described in sec-  
14          tion 2751.

15          “(b) FUNDING CRITERIA.—In determining the cri-  
16          teria to be utilized in evaluating proposals for grants  
17          under this part, the Secretary shall consider—

18               “(1) the technical and scientific merit of the  
19               proposal;

20               “(2) the relative need of the populations or geo-  
21               graphic areas targeted under the proposal;

22               “(3) the potential positive impact of the activity  
23               to be undertaken under the proposal in advancing  
24               the goals of the Healthy People 2000 objectives;

1           “(4) the potential for innovation in program de-  
2           sign and the cost effectiveness of the proposal;

3           “(5) the application of current scientific and  
4           medical knowledge under the proposal;

5           “(6) the integration of activities under the pro-  
6           posal with existing health programs or research;

7           “(7) quality control and program accountability;  
8           and

9           “(8) other attributes determined to be relevant  
10          by the Secretary.

11   **“SEC. 2755. COORDINATION AND INTEGRATION OF FUNDED**  
12                   **ACTIVITIES.**

13          “(a) IN GENERAL.—

14               “(1) FEDERAL ACTIVITIES.—The Secretary  
15               shall ensure that activities that receive funding  
16               under this part are fully integrated and coordinated  
17               with existing Federally funded activities of a similar  
18               nature.

19               “(2) STATE ACTIVITIES.—Participating States  
20               shall ensure that activities funded under this part in  
21               the State are fully integrated and coordinated with  
22               State and locally funded activities of a similar na-  
23               ture.

24          “(b) SUBMISSION OF CERTAIN PROPOSALS TO  
25          STATES.—

1           “(1) REQUIREMENTS.—To ensure an appro-  
2       priate coordination of related activities and pro-  
3       grams within the State under subsection (a)(2), an  
4       institution of higher education or other nonprofit en-  
5       tity that submits an application for a grant under  
6       this part shall initially submit the grant proposal to  
7       the State for review and comment prior to submit-  
8       ting such proposal to the Secretary.

9           “(2) STATE COMMENTS.—An application sub-  
10      mitted to the Secretary by an institution of higher  
11      education or other nonprofit entity under this part  
12      shall be accompanied by the comments of the State  
13      with respect to the initial submission under para-  
14      graph (1) and the response of the submitting entity  
15      to the such comments.

16          “(3) DESCRIPTION OF EXISTING PROGRAMS.—  
17      An application referred to in paragraph (2) shall  
18      contain a description of programs of a similar na-  
19      ture operating within the targeted community and a  
20      description of the manner in which the proposed  
21      program will be coordinated and integrated with  
22      such similar programs, including maternal and child  
23      health programs under title V of the Social Security  
24      Act.

1 **“SEC. 2756. ANNUAL BUDGET.**

2 “The Secretary shall utilize an amount not to exceed  
3 5 percent of the total amount deposited into the Trust  
4 Fund in a fiscal year for awarding grants under this part  
5 in such fiscal year.”.

6 **SEC. 205. RESPONSIBILITIES OF FAMILIES, CERTIFIED**  
7 **PLANS, EMPLOYERS, STATES, AND THE FED-**  
8 **ERAL GOVERNMENT.**

9 Title XXVII of the Public Health Service Act (as  
10 added by section 201 and amended by sections 202, 203,  
11 and 204) is further amended by adding at the end thereof  
12 the following new part:

13 **“Part G—Responsibilities of Families, Certified**  
14 **Plans, Employers, States, and the Federal Gov-**  
15 **ernment**

16 **“SEC. 2761. RESPONSIBILITIES OF FAMILIES.**

17 “A family with an eligible child under seven years of  
18 age, or an eligible pregnant woman, who is not covered  
19 under a health plan shall—

20 “(1) be responsible for enrolling such child or  
21 pregnant woman in a certified plan;

22 “(2) pay the share of premiums and  
23 copayments required of such family under this title;  
24 and

25 “(3) maintain an active role and participate in  
26 the health care system to ensure that the child or

1 pregnant woman receives appropriate, high quality  
2 health care.

3 **“SEC. 2762. RESPONSIBILITIES OF CERTIFIED PLANS.**

4 “(a) IN GENERAL.—A certified plan participating in  
5 a State program under this title shall—

6 “(1) be certified by the State and comply with  
7 all requirements for such certification or  
8 recertification;

9 “(2) participate in a national open enrollment  
10 period and permit enrollment at the point-of-service;

11 “(3) in the case of a family that has at least  
12 one eligible child enrolled in the certified plan and  
13 one or more other children who are not eligible for  
14 coverage under this title, offer optional family enroll-  
15 ment with respect to such other children at a rea-  
16 sonable cost;

17 “(4) in the case of a family that has at least  
18 one eligible child enrolled in the certified plan, and  
19 one or more other children who are eligible for  
20 health services under title XIX of the Social Security  
21 Act but not eligible for coverage under this title,  
22 offer health services under title XIX for such other  
23 children in the family;

24 “(5) not discriminate against individuals during  
25 marketing, enrollment, or provision of services based

1 on pre-existing conditions, genetic predisposition of  
2 health conditions, medical history, expected utiliza-  
3 tion of services or health expenditures, race, eth-  
4 nicity, national origin, religion, age (within the eligi-  
5 ble age group), gender, income, or disability;

6 “(6) accept any applicant for enrollment if such  
7 applicant is an eligible individual and resides within  
8 the geographic area served by the plan, and may not  
9 deny enrollment to any eligible individual except on  
10 the basis of documented plan capacity;

11 “(7) in the case of enrolled individuals who are  
12 re-enrolling in the plan, ensure that such individuals  
13 are re-enrolled if eligibility is maintained;

14 “(8) not use pressure, misleading advertising or  
15 marketing, or other unethical practices to coerce or  
16 discourage certain individuals or groups from enroll-  
17 ing in the plan or disenrolling from the plan;

18 “(9) establish a system for collecting premiums  
19 and copayments;

20 “(10) not terminate the enrollment of an indi-  
21 vidual except in cases of failure to pay premiums or  
22 copayments, fraud and abuse, or withdrawal of the  
23 plan from the market, and notify the State of the in-  
24 tention of the plan to terminate the enrollment of an

1 enrollee not later than 60 days prior to the date on  
2 which coverage under such plan is terminated;

3 “(11) not impose a waiting period prior to the  
4 date on which coverage under the plan commences;

5 “(12) directly provide or provide coverage for  
6 all items and services required under the comprehen-  
7 sive benefits package under part C, ensure that the  
8 premium amount negotiated with the State under  
9 this title is the full required premium, and not im-  
10 pose any additional charges for covered items or  
11 services;

12 “(13) not exclude coverage or deny care for any  
13 pre-existing conditions, congenital conditions, or ge-  
14 netic predispositions to conditions that are covered  
15 under the comprehensive benefits package;

16 “(14) ensure that a choice of primary care pro-  
17 viders is available to enrollees, that primary care  
18 and preventive services are readily available and con-  
19 venient to all enrollees within the geographic area  
20 served, and that emergency services are available on  
21 a 24-hour basis, 7 days a week;

22 “(15) establish a program for the credentialing  
23 and performance monitoring of providers under the  
24 plan and ensure that adequate health provider to en-

1 rolled individual ratios are established and main-  
2 tained;

3 “(16) provide strong, comprehensive preventive  
4 health and patient education services;

5 “(17) ensure that the special health needs of  
6 children with disabilities or chronic health conditions  
7 are adequately met;

8 “(18) if sufficient capacity to deliver health  
9 services for children described in paragraph (16)  
10 does not exist within the certified plan, including pe-  
11 diatric specialty and subspecialty care, enter into  
12 agreements with such providers or facilities to pro-  
13 vide appropriate care;

14 “(19) to the extent that resources or services  
15 are not available within the plan, provide access to  
16 an integrated child and maternal health care net-  
17 work, which consists of a network of providers who  
18 together can provide for the full continuum of health  
19 care, including preventive, primary, secondary, ter-  
20 tiary, rehabilitation, chronic and long-term care,  
21 home care, and hospice care;

22 “(20) ensure that with respect to any network  
23 described in paragraph (19), the network specifically  
24 provide access to pediatric and maternal specialty  
25 and subspecialty care;



1           “(21) enter into cooperative agreements with  
2 providers or facilities to provide a continuum of care  
3 if resources to provide such care are not available  
4 within the plan;

5           “(22) if medically-indicated subspecialty care is  
6 not available within the geographic area served by  
7 the plan, provide transportation to the nearest ap-  
8 propriate facility;

9           “(23) provide coverage for emergency care ob-  
10 tained in out-of-area or out-of-State facilities so long  
11 as the health condition was certified to be an emer-  
12 gency by the attending physician or could have been  
13 reasonably assumed to be an emergency by the fam-  
14 ily;

15           “(24) provide coverage for deliveries of  
16 newborns at nonhospital facilities in areas where  
17 such facilities are available;

18           “(25) make a reasonable effort to provide lan-  
19 guage translation services in areas where languages  
20 other than English are relatively common;

21           “(26) implement disincentives (such as higher  
22 copayments) for the inappropriate use of emergency  
23 rooms for nonemergency care;

24           “(27) provide incentives (such as reduced pre-  
25 miums, premium rebates, or additional services) for

1 enrollees who comply with medical and public health  
2 recommendations for immunizations, prenatal care,  
3 healthy behaviors, or other preventive health guide-  
4 lines;

5 “(28) implement an information system to col-  
6 lect and report data as required under sections 2744  
7 and 2745;

8 “(29) implement a quality assessment and im-  
9 provement program and utilization review program  
10 as required under section 2743;

11 “(30) pursuant to the guidelines developed by  
12 the State, submit an annual evaluation and quality  
13 improvement plan, including an evaluation of the  
14 plan’s cost containment measures, assurance of qual-  
15 ity care, impact on the health status of the enrolled  
16 population (including outcome measures and process  
17 objectives), a financial statement, proposed changes  
18 in premium rates, and a description of other rel-  
19 evant changes to the plan (the State shall provide  
20 guidance to certified plans concerning the elements  
21 of an acceptable annual evaluation and quality im-  
22 provement plan, and may use the annual evaluation  
23 and quality improvement plan as the basis for the  
24 recertification of plans);

1           “(31) establish a program for consumer feed-  
2       back and the resolution of consumer complaints that  
3       includes specified time frames for decisions, such  
4       program to be clearly documented and made avail-  
5       able to all enrollees;

6           “(32) in consultation with local health depart-  
7       ments and maternal and child health programs  
8       under title V of the Social Security Act, establish,  
9       support, or substantially participate in a community-  
10      based maternal or child health program in the cov-  
11      erage area served by the plan;

12          “(33) comply with any other relevant State or  
13      Federal regulations.

14          “(b) REGULATORY BURDEN.—To minimize the regu-  
15      latory burdens and potentially duplicative standards and  
16      regulations that may be applied under this title or any  
17      other Federal or State program that duplicates activities  
18      undertaken under this title, a certified plan shall be con-  
19      sidered as fulfilling a requirement or complying with a  
20      standard under this title, if the plan is meeting an existing  
21      State or Federal requirement or standard that has been  
22      determined by the Secretary (or the State, as appropriate)  
23      to be identical or at least as effective as that specified  
24      under this title.

1       “(c) NONAPPLICATION OF PROVISIONS.—The re-  
2       quirements and guidelines described in this title shall not  
3       apply to health plans that do not participate in a State  
4       program under this title (with the exception of health  
5       plans complying with section 2745), and shall not apply  
6       (unless the plan elects for such requirements to apply),  
7       to the care and treatment of individuals in the plan who  
8       are not enrolled in the State program under this title.

9       **“SEC. 2763. RESPONSIBILITIES OF EMPLOYERS.**

10       “With respect to the program established under this  
11       title, an employer shall—

12               “(1) in the case of an employer that provides  
13       health benefits to pregnant women, not terminate  
14       such benefits as result of the establishment of such  
15       program;

16               “(2) in the case of an employer that provides  
17       health benefits to employee dependents under seven  
18       years of age, not terminate such benefits unless the  
19       employer agrees to pay the temporary maintenance-  
20       of-effort fee required under section 2771(b).

21       An employer may not terminate the benefits described in  
22       this section until the expiration of the 180-day period be-  
23       ginning on the date on which the State in which such em-  
24       ployer fully implements a State program.

1   **“SEC. 2764. RESPONSIBILITIES OF THE STATE.**

2       “A participating State shall—

3           “(1) develop and submit an approved initial 5-  
4       year strategic plan and annual evaluation and qual-  
5       ity improvement plans to the Secretary as required  
6       under this title;

7           “(2) develop a process for certifying and re-cer-  
8       tifying health plans under this title under which—

9           “(A) the criteria for certification or  
10       recertification shall include—

11           “(i) an evaluation of minimum capital  
12       requirements, solvency requirements, and  
13       other standards related to the financial  
14       stability of the plan;

15           “(ii) premium rating methodology;

16           “(iii) the quality of services to be pro-  
17       vided by the plan; and

18           “(iv) the ability of the plan to provide  
19       the required items and services; and

20           “(B) such plans shall be re-certified at  
21       least once during every 4-year period and sub-  
22       sequent to each instance in which the plan has  
23       undergone significant changes (such as a merg-  
24       er) as determined appropriate by the State;

25           “(3) establish a system through which the State  
26       can solicit and evaluate proposals from all health

1 plans desiring to be certified under this title, and  
2 enter into cooperative agreements with such certified  
3 plans;

4 “(4) to maximize the choice of certified plans in  
5 an area, ensure, through the system established  
6 under paragraph (3), that any certified health plan  
7 that fulfills all State and Federal requirements and  
8 guidelines under this title, and is otherwise in good  
9 standing with the State, is permitted to participate  
10 in the State program;

11 “(5) elect whether to enter into risk or profit  
12 sharing agreements with all or selected certified  
13 plans;

14 “(6) elect whether to implement rate margin  
15 provisions in agreements with certified plans such  
16 that, at the end of a contract period, certified plans  
17 would be reimbursed by the State if incurred costs  
18 exceeded anticipated costs, and States could recover  
19 excess premiums from the plan if incurred costs are  
20 less than anticipated costs at the time of rate nego-  
21 tiation;

22 “(7) implement risk adjustment methods, rein-  
23 surance mechanisms, or other appropriate mecha-  
24 nisms to ensure that State payments to specific cer-  
25 tified plans are reflective of the expected utilization

1 or expenditure rates of plan enrollees and to protect  
2 specific certified plans that enroll a disproportionate  
3 share of individuals who are expected to incur a  
4 higher than average utilization or expenditure rate;

5 “(8) ensure that the premium rating meth-  
6 odologies of certified plans are well documented, ac-  
7 tuarially sound, and minimize large variations in an-  
8 nual premium rates;

9 “(9) directly reimburse each certified plan for  
10 the State portion of the negotiated premium for en-  
11 rolling eligible children and pregnant women;

12 “(10) ensure that the premiums negotiated with  
13 each certified plan apply with respect to all eligible  
14 children and all eligible pregnant women who enroll  
15 in the plan;

16 “(11) negotiate discounted premiums for fami-  
17 lies with multiple children with certified plans;

18 “(12) ensure that premium rates negotiated  
19 with certified plans fairly compensate such plans for  
20 the services provided, but that such rates do not re-  
21 sult in excessive profits by plans;

22 “(13) offer families a choice of certified plans  
23 to the extent practicable so long as at least one man-  
24 aged care plan for children is available to all eligible  
25 children regardless of geographic location;

1           “(14) elect whether to use financial or other in-  
2           centives to encourage adequate coverage of rural and  
3           underserved areas;

4           “(15) develop and implement an open enroll-  
5           ment system during the national open enrollment pe-  
6           riod consistent with the guidelines described in sec-  
7           tion 2715;

8           “(16) implement an outreach program to maxi-  
9           mize the enrollment of eligible individuals;

10          “(17) ensure that certified plans accept any ap-  
11          plicant who is eligible for coverage within the geo-  
12          graphic area and that such plans do not discriminate  
13          or use coercive or unethical practices to encourage or  
14          dissuade enrollment into the plan;

15          “(18) in determining or approving the bound-  
16          aries of coverage areas for certified plans, ensure  
17          that the coverage areas are consistent with the anti-  
18          discrimination standards specified in subsection  
19          (a)(4) or section 2762, and that such boundaries do  
20          not result in plans avoiding enrollment of individuals  
21          who are expected to have higher than average rates  
22          of utilization or expenditures;

23          “(19) impose a surcharge for persons who en-  
24          roll outside of the regular open enrollment period as  
25          required under section 2715;



1           “(20) monitor, evaluate, and address the poten-  
2           tial barriers, including cost sharing requirements,  
3           that may prevent certain families, particularly low  
4           income families, from enrolling in the State program  
5           or from obtaining health services after enrollment;

6           “(21) develop a mechanism to assist families  
7           who cannot temporarily pay for premiums or  
8           copayments due to unexpected shortfalls in income;

9           “(22) in the case of fee-for-service plans, use  
10          pediatric- and maternal-specific prospective payment  
11          schedules for the reimbursement of services, such  
12          schedules to be negotiated between providers, plans,  
13          and the State;

14          “(23) ensure that State maternal and child  
15          health programs under title V of the Social Security  
16          Act and any relevant health services provided by  
17          local and State health departments are integrated  
18          and coordinated with the State program under this  
19          title;

20          “(24) establish a State advisory council similar  
21          in nature to the Advisory Council, except that the  
22          composition, organization, and other guidelines for  
23          the State council shall be determined by the State,  
24          with the majority of State council members being  
25          comprised of health care providers and consumers;

1           “(25) develop and implement standards for the  
2       dissemination of consumer information provided by  
3       certified plans (including information concerning  
4       services for children with special health care needs),  
5       provide consumers with comparative information on  
6       certified plans during the open enrollment period as  
7       requested, and set up hotlines and other mechanisms  
8       to assist consumers;

9           “(26) approve all advertising or other market-  
10      ing materials from certified plans to ensure that  
11      such materials do not contain misleading or false in-  
12      formation, and that the content of the material does  
13      not selectively encourage or selectively discourage  
14      certain groups of individuals, as referred to in sec-  
15      tion 2762, from enrolling in or disenrolling from the  
16      plan (a State may elect to contract with nongovern-  
17      ment entities to perform such functions);

18          “(27) ensure that decisions regarding the ap-  
19      proval of the advertising or other marketing mate-  
20      rials of a certified plan are made in a reasonable  
21      time frame and are based on consistently applied cri-  
22      teria as determined appropriate by the State;

23          “(28) establish a mechanism for consumer feed-  
24      back, the collection of complaints, filing of griev-

1       ances, and assist in the resolution of complaints  
2       against certified plans;

3               “(29) establish at least one alternative dispute  
4       resolution mechanism for malpractice claims filed by  
5       individuals enrolled in a certified plan;

6               “(30) address deficiencies in enabling services  
7       to ensure access to health services among under-  
8       served areas or populations;

9               “(31) ensure that primary care services are ac-  
10      cessible by public transportation in municipalities  
11      that have a public transport system;

12              “(32) for a period of not less than 5 years after  
13      the date of the implementation of the State pro-  
14      gram, ensure that health facilities that provide care  
15      to large numbers of children, pregnant women, chil-  
16      dren with special health care needs, or low income  
17      persons, including—

18                      “(A) non-investor-owned hospitals;

19                      “(B) community health centers;

20                      “(C) school-based health clinics;

21                      “(D) rural health clinics; and

22                      “(E) local health departments;

23      are able to participate fully in the State program,  
24      are adequately reimbursed for their services, and are  
25      able to enter into agreements with certified plans (in

1 cases where such providers are not affiliated with a  
2 certified plan, the State may encourage such provid-  
3 ers to form their own certified plan);

4 “(33) enter into agreements with bordering  
5 States to ensure that individuals who need to travel  
6 across State borders for medically necessary health  
7 services that are otherwise not accessible may do so  
8 without penalty;

9 “(34) if determined appropriate, elect to imple-  
10 ment laws to take legal action against families who  
11 fail to enroll their children or who fail to pay pre-  
12 miums for children under their care who require  
13 medical treatment for a health condition;

14 “(35) establish a system for preventing, mon-  
15 itoring, and controlling fraud and abuse as required  
16 under section 2746, and establish a system to pre-  
17 vent and address any conflicts of interest on the  
18 part of the State or its designated representatives  
19 regarding the award, management, or evaluation of  
20 contracts with certified plans; and

21 “(36) ensure that certified plans are in compli-  
22 ance with State and Federal guidelines under this  
23 title.

1 **“SEC. 2765. RESPONSIBILITIES OF THE SECRETARY.**

2 “With respect to the program established under this  
3 title, the Secretary shall—

4 “(1) administer amounts provided to the Sec-  
5 retary from the Trust Fund;

6 “(2) approve, evaluate, and monitor State pro-  
7 grams as required under part D;

8 “(3) provide participating States with technical  
9 and other assistance;

10 “(4) establish, appoint, and provide support for  
11 the Advisory Council as required under section  
12 2742;

13 “(5) establish and coordinate the national open  
14 enrollment period as required under section 2715;

15 “(6) develop a specific comprehensive benefits  
16 package required under part B;

17 “(7) develop national guidelines for quality as-  
18 sessment and improvement programs and utilization  
19 review programs as required under section 2743;

20 “(8) develop and implement the Information  
21 System and the National Childhood Immunization  
22 Database;

23 “(9) review, prioritize, integrate, and coordinate  
24 Federally funded health programs for children and  
25 pregnant women as required under sections 2754,  
26 2755, and 2773;

9       “With respect to the program established under this  
10 title, the Attorney General in conjunction with the Sec-  
11 retary shall establish a system for preventing, monitoring,  
12 and controlling fraud and abuse as required under section  
13 2746.

16       “With respect to the program established under this  
17 title, the Secretary of Agriculture shall administer amount  
18 distributed from the Tobacco Alternatives Trust Fund es-  
19 tablished under section 9512 of the Internal Revenue Code  
20 of 1986.”.

Title XXVII of the Public Health Service Act (as added by section 201 and amended by sections 202, 203, 204, and 205) is further amended by adding at the end thereof the following new part:

1       **“Part H—Impact on Employers and Existing**  
2                               **Programs**

3   **“SEC. 2771. IMPACT ON EMPLOYERS.**

4       “(a) IN GENERAL.—The Congress encourages em-  
5   ployers to provide, or continue to provide, comprehensive  
6   health care coverage to the dependent children of their em-  
7   ployees.

8       “(b) DROPPING OF COVERAGE.—

9               “(1) IN GENERAL.—With respect to a partici-  
10   pating State, if the Secretary of Labor determines  
11   that an employer who provided health care coverage  
12   for the dependent children of the employees of the  
13   employer, has terminated such coverage on or after  
14   the date of enactment of this title, for all children  
15   or children under seven years of age, the Secretary  
16   may impose a temporary annual maintenance of ef-  
17   fort fee on such employer, the proceeds of which  
18   shall be deposited into the Trust Fund. In no case  
19   may an employer drop coverage of employee-depend-  
20   ent children until the date that is 180 days after the  
21   State fully implements a State program. An em-  
22   ployer may not selectively drop health care coverage  
23   for specific employee-dependent children who have,  
24   or are expected to have, higher than average utiliza-  
25   tion or health care costs.

1           “(2) AMOUNT OF FEE.—The amount of a fee  
2       assessed under paragraph (1) shall be equivalent to  
3       50 percent of the estimated annual cost of providing  
4       comprehensive coverage for all employee-dependent  
5       children.

6           “(3) PERIOD OF FEE.—An annual fee imposed  
7       under paragraph (1) shall be in effect for a period  
8       not to exceed 5 years.

9           “(4) PREGNANCY COVERAGE.—Employers who  
10      provide pregnancy-related health care benefits for  
11      their employees and dependents shall continue to do  
12      so after the date of enactment of this Act.

13   **“SEC. 2772. IMPACT ON MEDICAID.**

14      (a) AUTOMATIC ENROLLMENT.—With respect to a  
15      participating State, children under 7 years of age, and  
16      pregnant women, who are enrolled in the program under  
17      title XIX of the Social Security Act shall be automatically  
18      enrolled into the appropriate State program under this  
19      title.

20      “(b) BENEFITS.—All health benefits provided under  
21      title XIX of the Social Security Act, including long-term  
22      and chronic care services for children with disabilities or  
23      chronic health conditions, shall be received under the State  
24      program under this title. A participating State may elect  
25      not to shift long-term and chronic care services for chil-



1 dren with disabilities or chronic health conditions under  
 2 such title XIX into the State program under this title,  
 3 if the State can demonstrate that doing so would signifi-  
 4 cantly compromise the quality of care for such children.  
 5 A participating State that elects not to shift such long-  
 6 term and chronic care services into the State program  
 7 under this Act shall develop health care coordination plans  
 8 that integrate the various sources of health services for  
 9 such children in consultation with State maternal and  
 10 child health programs under title V of such Act. A partici-  
 11 pating State may elect to establish a transitional period  
 12 to gradually phase in children with disabilities or chronic  
 13 health condition benefits into the State program.

14 **“SEC. 2773. INTEGRATION OF HEALTH SERVICES AND IM-**  
 15 **PACT ON EXISTING FEDERAL AND STATE**  
 16 **GOVERNMENT HEALTH PROGRAMS.**

17 “(a) REVIEW BY SECRETARY AND STATES.—Not  
 18 later than 2 years after the date of enactment of this Act,  
 19 and every 2 years thereafter—

20 “(1) the Secretary, in consultation with the Ma-  
 21 ternal and Child Health Bureau, shall review all  
 22 Federal health programs that provide health services  
 23 to children under 7 years of age and pregnant  
 24 women; and

1           “(2) a participating State, acting through a  
2           designated single State agency or other entity, and  
3           in consultation with State health programs author-  
4           ized under title V of the Social Security Act, shall  
5           review State-funded programs that provide health  
6           services to children under seven years of age and  
7           pregnant women;

8           to ensure that such programs are integrated and coordi-  
9           nated with the services covered by this title.

10          “(b) RECOMMENDATIONS.—If the Secretary, through  
11          the review conducted under subsection (a), determines  
12          that specific functions performed by Federal health pro-  
13          grams under such review are duplicated or made extra-  
14          neous by the programs and benefits provided under this  
15          title, the Secretary shall submit recommendation to Con-  
16          gress concerning the elimination or reduction in such pro-  
17          grams or benefits. With respect to any amounts appro-  
18          priated for any programs terminated, such remaining ap-  
19          propriations shall be transferred to the Trust Fund.

20          “(c) ASSURANCE.—The Secretary and all participat-  
21          ing States shall ensure that Federal payments under title  
22          V of the Social Security Act and matching State funds  
23          provided under this title are retained within existing pro-  
24          grams to—

1           “(1) meet the health care needs of children over  
2       7 years of age, and eligible children and pregnant  
3       women who do not participate in the State program  
4       under this title;

5           “(2) perform core public health functions;

6           “(3) coordinate care for children with special  
7       health care needs; and

8           “(4) otherwise to meet needs identified through  
9       title V needs assessments consistent with Healthy  
10      People 2000 objectives.

11 **SEC. 207. GENERAL PROVISIONS.**

12       Title XXVII of the Public Health Service Act (as  
13       added by section 201 and amended by sections 202, 203,  
14       204, 205, and 206) is further amended by adding at the  
15       end thereof the following new part:

16                   **“Part I—General Provisions**

17 **“SEC. 2781. DEFINITIONS.**

18       “Unless specifically provided otherwise, for purposes  
19       of this title:

20           “(1) **ADJUSTED FAMILY GROSS INCOME.**—The  
21       term ‘adjusted family gross income’ means the sum  
22       of all adjusted gross income of all family members  
23       of the child or pregnant women involved in the most  
24       recent tax year. In the case of a pregnant woman,

1 such term also includes the adjusted gross income of  
2 the pregnant woman.

3 “(2) ADVISORY COUNCIL.—The term ‘Advisory  
4 Council’ means the National Advisory Council for  
5 Mother’s and Children’s Health established under  
6 section 2742.

7 “(3) CERTIFIED PLAN.—The term ‘certified  
8 plan’ means the agreement entered into by an orga-  
9 nized health care entity to cover or provide specified  
10 health care services under State and Federal guide-  
11 lines under this title. Organizations that may enter  
12 into such agreement shall include health mainte-  
13 nance organizations, preferred provider organiza-  
14 tions, point-of-service plans, fee-for-service plans, in-  
15 demnity insurance plans, hybrids of such plans, and  
16 any other organized health care entities that fulfill  
17 the requirements of this title.

18 “(4) CHILD.—

19 “(A) IN GENERAL.—The term ‘child’  
20 means an individual who has not attained the  
21 age of 21.

22 “(B) REFERENCES.—References in this  
23 title to a child shall be construed to mean—

24 “(i) in the case of a State program  
25 that does not have an expanded eligibility

1 component, an individual under 7 years of  
2 age; and

3 “(ii) in the case of a State program  
4 that offers an expanded eligibility compo-  
5 nent, an individual under 21 years of age.

6 “(5) COMPREHENSIVE BENEFITS PACKAGE.—  
7 The term ‘comprehensive benefits package’ means  
8 either the benefits package for children or the bene-  
9 fits package for pregnant women, as the case may  
10 be, developed by the Secretary under section  
11 2721(a).

12 “(6) CORE PUBLIC HEALTH FUNCTIONS.—The  
13 term ‘core public health functions’ means the follow-  
14 ing:

15 “(A) The collection and analysis of public  
16 health-related data and the technical aspects of  
17 developing and operating information systems.

18 “(B) Activities related to protecting the  
19 environment and ensuring the safety of work-  
20 places, food, and water.

21 “(C) Investigation and control of adverse  
22 health conditions and exposures to individuals  
23 and the community.

24 “(D) Information and education programs  
25 to prevent adverse health conditions.

1           “(E) Accountability and health care qual-  
2           ity improvement activities.

3           “(F) The provision of public health labora-  
4           tory services.

5           “(G) Training for public health profes-  
6           sionals.

7           “(H) Health care leadership, policy devel-  
8           opment, coalition-building, and administrative  
9           activities.

10          “(I) Integration and coordination of pre-  
11          vention programs and services of health plans,  
12          community-based providers, government health  
13          agencies, and other government agencies that  
14          affect health including education, labor, trans-  
15          portation, welfare, criminal justice, environ-  
16          ment, agriculture and housing.

17          “(J) Research on effective and cost-effec-  
18          tive public health practices.

19          “(7) ENABLING SERVICES.—The term ‘enabling  
20          services’ means community outreach, health edu-  
21          cation, transportation, language translation, and  
22          other services that facilitate or otherwise assist eligi-  
23          ble individuals to receive health services provided  
24          under this title.

1           “(8) FAMILY.—The term ‘family’ means a preg-  
2           nant woman residing alone or a group of two or  
3           more individuals who reside together in the same  
4           housing unit. Such individuals may be related (such  
5           as parent and child) or unrelated (such as guardian  
6           and foster child) individuals. In the case of children  
7           who do not reside with their parents, such term may  
8           also include individuals (such as family friends) or  
9           entities (such as government agencies) that have pri-  
10          mary responsibility for the health and welfare of the  
11          child.

12           “(9) INFORMATION SYSTEM.—The term ‘Infor-  
13          mation System’ means the National Health Informa-  
14          tion System for Mothers and Children established  
15          under section 2744.

16           “(10) NATIONAL CHILDHOOD IMMUNIZATION  
17          DATABASE.—The term ‘National Childhood Immuni-  
18          zation Database’ means the electronic database es-  
19          tablished under section 2745.

20           “(11) PARTICIPATING STATE.—The term ‘par-  
21          ticipating State’ means any of the 50 States, the  
22          District of Columbia, Puerto Rico, and any of the  
23          trust territories of the United States, that elects to  
24          participate in the program established under this  
25          title.

1           “(12) POVERTY LEVEL.—The term ‘poverty  
2       level’ the income official poverty line (as defined by  
3       the Office of Management and Budget, and revised  
4       annually in accordance with section 673(2) of the  
5       Community Services Block Grant Act (42 U.S.C.  
6       9902(2)) applicable to a family of the size involved.

7           “(13) TOBACCO ALTERNATIVES TRUST FUND.—  
8       The term ‘Tobacco Alternatives Trust Fund’ means  
9       the trust fund established under section 9512 of the  
10      Internal Revenue Code of 1986.

11          “(14) TRUST FUND.—The term ‘Trust Fund’  
12      means the National Health Trust Fund for Mothers  
13      and Children established under section 9551 of the  
14      Internal Revenue Code of 1986.

15   **“SEC. 2782. AUTHORIZATION OF APPROPRIATIONS.**

16      “(a) AVAILABILITY OF FUNDS FROM TRUST  
17   FUND.—From the Trust Fund established under section  
18   9551 of the Internal Revenue Code of 1986, there shall  
19   be available such sums as may be necessary to carry out  
20   this title in each fiscal year.

21      “(b) HHS ACTIVITIES.—With respect to the develop-  
22   ment and implementation of programs and activities re-  
23   quired to be carried out by the Secretary under this title,  
24   there are authorized to be appropriate such sums as may



1 be necessary for each of the fiscal years 1996 through  
2 2000.

3 “(c) JUSTICE ACTIVITIES.—With respect to the de-  
4 velopment and implementation of programs and activities  
5 required to be carried out by the Attorney General under  
6 this title, there are authorized to be appropriate such sums  
7 as may be necessary for each of the fiscal years 1996  
8 through 2000.”.

9 **SEC. 208. UNLAWFUL USE OF TOBACCO PRODUCTS MANU-**  
10 **FACTURED FOR EXPORT.**

11 (a) DEFINITIONS.—Section 2341 of title 18, United  
12 States Code, is amended—

13 (1) in paragraph (4), by striking “; and” and  
14 inserting a semicolon;

15 (2) by striking the period at the end of para-  
16 graph (5) and inserting “; and”; and

17 (3) by adding at the end the following new  
18 paragraph:

19 “(6) the term ‘tobacco products’ has the mean-  
20 ing given such term in section 5702(c) of the Inter-  
21 nal Revenue Code of 1986.”.

22 (b) UNLAWFUL ACTS.—Section 2342 of title 18,  
23 United States Code, is amended by adding at the end the  
24 following new subsection:

1       “(c) It shall be unlawful for any person knowingly  
2 to purchase, sell, distribute, or smuggle in the United  
3 States, tobacco products that are designated for consump-  
4 tion beyond the territorial jurisdiction of the internal reve-  
5 nue laws of the United States.”.

6       (c) PENALTY.—Section 2344 of title 18, United  
7 States Code, is amended by adding at the end the follow-  
8 ing new subsection:

9       “(d)(1) Whoever knowingly violates section 2342(c)  
10 shall be fined the greater of—

11               “(A) \$10,000; or

12               “(B) an amount equal to 5 times the amount  
13 of the tax imposed under section 5701 of the Inter-  
14 nal Revenue Code of 1986,

15 which shall be deposited into the Fund created pursuant  
16 to section 9512 of the Internal Revenue Code of 1986.

17       “(2) A judgment for a violation of section 2342(c),  
18 may, in addition to the penalty under paragraph (1), order  
19 the confiscation of any equipment and vehicles, including  
20 ships, aircraft, and motor vehicles, used to transport to-  
21 bacco products in violation of such section. Any property  
22 confiscated under this paragraph shall become the prop-  
23 erty of the United States.”.

## **TITLE III—FINANCING PROVISIONS**

### **SEC. 301. INCREASE IN TAXES ON TOBACCO PRODUCTS.**

(a) FINDINGS.—The Congress finds the following:

(1) More than 400,000 people die prematurely every year in the United States from tobacco-related diseases. This number is more than the total number of deaths from AIDS, car accidents, alcohol, suicides, homicides, fires, and illegal drugs combined.

(2) In addition to the human toll of tobacco, the economic costs of tobacco are staggering. Tobacco-related direct medical care costs in 1993 were estimated at \$50,000,000,000 or approximately 7 percent of all direct medical expenditures and total costs were estimated at \$102,000,000,000. Expected lifetime medical costs for the average smoker exceed those of the nonsmoker by 28 percent for men and 21 percent for women.

(3) On average, each pack of cigarettes smoked is responsible for more than \$3.90 in health care costs and lost productivity. Approximately \$22,000,000,000 of direct medical care costs caused by tobacco use in 1993 were paid for with Government funds. The excess health care costs attributed to tobacco use and paid for by all taxpayers should

1 be partially recouped and used to fund health-related  
2 activities.

3 (4) Tobacco use is a pediatric disease. Most  
4 smokers begin smoking during childhood. Among  
5 current adult daily smokers, 89 percent started  
6 smoking by or at 18 years. Smokeless tobacco users  
7 start at an average age of nine and a half. Public  
8 health experts and studies indicate that a substan-  
9 tial increase in the tobacco tax is the single most im-  
10 portant element of an overall comprehensive strategy  
11 to reduce tobacco use among children. In addition to  
12 a substantial tax, a coordinated and adequately  
13 funded national program is needed to prevent and  
14 control tobacco use among children.

15 (5) A \$1.50 per pack increase in the Federal  
16 excise tax for cigarettes and equivalent increase in  
17 other tobacco products is estimated to result in  
18 6,100,000 fewer smokers, most of them children,  
19 and will save 1,500,000 lives.

20 (b) ESTABLISHMENT OF INCREASE.—

21 (1) IN GENERAL.—Section 5701 of the Internal  
22 Revenue Code of 1986 (relating to rate of tax on ci-  
23 gars, smokeless tobacco, pipe tobacco, and cigarette  
24 papers and tubes) is amended to read as follows:

1 **“SEC. 5701. RATE OF TAX.**

2 “(a) CIGARS.—On cigars manufactured in or im-  
3 ported into the United States and removed during 1996,  
4 there shall be imposed the following taxes:

5 “(1) SMALL CIGARS.—On cigars weighing not  
6 more than 3 pounds per thousand, \$76.1325 per  
7 thousand.

8 “(2) LARGE CIGARS.—On cigars weighing more  
9 than 3 pounds per thousand, 92.4375 percent of the  
10 price for which sold but not more than \$217.50 per  
11 thousand.

12 Cigars not exempt from tax under this chapter which are  
13 removed but not intended for sale shall be taxed at the  
14 same rate as similar cigars removed for sale.

15 “(b) CIGARETTES.—On cigarettes manufactured in  
16 or imported into the United States and removed during  
17 1996, there shall be imposed the following taxes:

18 “(1) SMALL CIGARETTES.—On cigarettes,  
19 weighing not more than 3 pounds per thousand, \$87  
20 per thousand.

21 “(2) LARGE CIGARETTES.—

22 “(A) IN GENERAL.—Except as provided in  
23 subparagraph (B), on cigarettes, weighing more  
24 than 3 pounds per thousand, \$182.70 per thou-  
25 sand.

1           “(B) LONG CIGARETTES.—In the case of  
2           cigarettes weighing more than 3 pounds per  
3           thousand that are more than 6½ inches in  
4           length, such cigarettes shall be taxable at the  
5           rate prescribed for cigarettes weighing not more  
6           than 3 pounds per thousand, counting each 2¾  
7           inches, or fraction thereof, of the length of each  
8           as one cigarette.

9           “(c) CIGARETTE PAPERS.—On each book or set of  
10          cigarette papers containing more than 25 papers, manu-  
11          factured in or imported into the United States and re-  
12          moved during 1996, there shall be imposed a tax of 5.445  
13          cents for each 50 papers or fractional part thereof (except  
14          that if cigarette papers measure more than 6½ inches,  
15          such papers shall be taxable at the rate prescribed, count-  
16          ing each 2¾ inches, or fraction thereof, of the length of  
17          each as one cigarette paper).

18          “(d) CIGARETTE TUBES.—On cigarette tubes, manu-  
19          factured in or imported into the United States and re-  
20          moved during 1996, there shall be imposed a tax of 10.89  
21          cents for each 50 tubes or fractional part thereof, except  
22          that if cigarette tubes measure more than 6½ inches in  
23          length, such tubes shall be taxable at the rate prescribed,  
24          counting each 2¾ inches, or fraction thereof as the length  
25          of each as one cigarette tube.

1       “(e) SMOKELESS TOBACCO.—On smokeless tobacco,  
2 manufactured in or imported into the United States and  
3 removed during 1996, there shall be imposed the following  
4 taxes:

5               “(1) SNUFF.—On snuff, \$20.355 per pound  
6 and a proportionate tax at the like rate on all frac-  
7 tional parts of a pound.

8               “(2) CHEWING TOBACCO.—On chewing tobacco,  
9 \$8.115 per pound and a proportionate tax at the  
10 like rate on all fractional parts of a pound.

11       “(f) PIPE TOBACCO.—On pipe tobacco, manufac-  
12 tured in or imported into the United States and removed  
13 during 1996, there shall be imposed a tax of \$25.6875  
14 per pound and a proportionate tax at the like rate on all  
15 fractional parts of a pound.

16       “(g) ROLL-YOUR-OWN TOBACCO.—On roll-your-own  
17 tobacco, manufactured in or imported into the United  
18 States and removed during 1996, there shall be imposed  
19 a tax of \$26.025 per pound (and a proportionate tax at  
20 the like rate on all fractional parts of a pound).

21       “(h) DETERMINATION OF TAX IN YEARS AFTER  
22 1996.—On all tobacco products, cigarette papers, and cig-  
23 arette tubes removed after 1996, there shall be imposed  
24 a tax equal to the tax imposed on such product during  
25 1996 increased by an amount equal to—

1 “(1) such dollar amount, multiplied by

2 “(2) the cost of living adjustment determined  
3 under section 1(f)(3) for the calendar year in which  
4 the cigarettes are removed, by substituting ‘calendar  
5 year 1995’ for ‘calendar year 1992’ in subparagraph  
6 (B) thereof.

7 “(i) DETERMINATION OF FLOOR STOCKS TAX IN IN-  
8 CREASE YEARS.—

9 “(1) IN GENERAL.—On all tobacco products,  
10 cigarette papers, and cigarette tubes manufactured  
11 in or imported into the United States which are re-  
12 moved before January 1 of any increase year and  
13 held on such date for sale by any person, there shall  
14 be imposed a tax equal to the amount by which—

15 “(A) the applicable tax on such product  
16 determined under this section for such year, ex-  
17 ceeds

18 “(B) such applicable tax on such product  
19 under this section for the preceding calendar  
20 year.

21 “(2) LIABILITY FOR TAX AND METHOD OF PAY-  
22 MENT.—

23 “(A) LIABILITY FOR TAX.—A person hold-  
24 ing tobacco products, cigarette papers, and cig-  
25 arette tubes on January 1 of any increase year



1 to which any tax imposed by paragraph (1) ap-  
2 plies shall be liable for such tax.

3 “(B) METHOD OF PAYMENT.—The tax im-  
4 posed by paragraph (1) or (2) shall be treated  
5 as a tax imposed under subsection (a) through  
6 (g) or subsection (h) of this section, as applica-  
7 ble, and shall be due and payable on February  
8 15 of each increase year in the same manner as  
9 the tax imposed under such section is payable  
10 with respect to tobacco products, cigarette pa-  
11 pers, and cigarette tubes removed on or after  
12 January 1 of such increase year.

13 “(3) EXCEPTION FOR RETAIL STOCKS.—The  
14 taxes imposed by paragraph (1) shall not apply to  
15 tobacco products, cigarette papers, and cigarette  
16 tubes in retail stocks held on January 1 of any in-  
17 crease year at the place where intended to be sold  
18 at retail.

19 “(j) FOREIGN TRADE ZONES.—Notwithstanding the  
20 Act of June 18, 1934 (19 U.S.C. 81a et seq.) or any other  
21 provision of law—

22 “(1) tobacco products, cigarette papers, and  
23 cigarette tubes—

24 “(A) on which taxes imposed by Federal  
25 law are determined, or customs responsibilities

1 are liquidated, by a customs officer pursuant to  
2 a request made under the first proviso of sec-  
3 tion 3(a) of the Act of June 18, 1934 (19  
4 U.S.C. 81c(a)) before January 1 of any in-  
5 crease year, and

6 “(B) which are entered into the customs  
7 territory of the United States on or after Janu-  
8 ary 1 of such increase year from a foreign trade  
9 zone, and

10 “(2) tobacco products, cigarette paper, and cig-  
11 arette tubes which—

12 “(A) are placed under the supervision of a  
13 customs officer pursuant to the provisions of  
14 the second proviso of section 3(a) of the Act of  
15 June 18, 1934 (19 U.S.C. 81c(a)) before Janu-  
16 ary 1 of such increase year, and

17 (B) are entered into the customs territory  
18 of the United States on or after January 1 of  
19 such increase year, from a foreign trade zone,  
20 shall be subject to the tax imposed by subsection (i)  
21 and such tobacco products, cigarette papers, and  
22 cigarette tubes shall, for purposes of subsection (i),  
23 be treated as being held on January 1 of such in-  
24 crease year for sale.

1       “(k) IMPORTED PRODUCTS AND CIGARETTE PAPERS  
 2 AND TUBES.—The taxes imposed by this section on to-  
 3 bacco products and cigarette papers, and cigarette tubes  
 4 imported into the United States shall be in addition to  
 5 any import responsibilities imposed on such articles, un-  
 6 less such import responsibilities are imposed in lieu of in-  
 7 ternal revenue tax.

8       “(l) INCREASE YEAR.—For purposes of this section,  
 9 the term ‘increase year’ means any calendar year after  
 10 1996.”

11               (2) ROLL-YOUR-OWN TOBACCO.—Section 5702  
 12 of such Code (relating to definitions) is amended by  
 13 adding at the end the following new subsection:

14       “(p) ROLL-YOUR-OWN TOBACCO.—The term ‘roll-  
 15 your-own tobacco’ means any tobacco which, because of  
 16 its appearance, type, packaging, or labeling, is suitable for  
 17 use and likely to be offered to, or purchased by, consumers  
 18 as tobacco for making cigarettes.”

19               (3) TECHNICAL AMENDMENTS.—

20               (A) Subsection (c) of section 5702 of such  
 21 Code is amended by striking “and pipe to-  
 22 bacco” and inserting “pipe tobacco, and roll-  
 23 your-own tobacco”.

24               (B) Subsection (d) of section 5702 of such  
 25 Code is amended—

1 (i) in the material preceding para-  
 2 graph (1), by striking “or pipe tobacco”  
 3 and inserting “pipe tobacco, or roll-your-  
 4 own tobacco”, and

5 (ii) by striking paragraph (1) and in-  
 6 serting the following new paragraph:

7 “(1) a person who produces cigars, cigarettes,  
 8 smokeless tobacco, pipe tobacco, or roll-your-own to-  
 9 bacco solely for the person’s own personal consump-  
 10 tion or use, and”.

11 (C) The chapter heading for chapter 52 of  
 12 such Code is amended to read as follows:

13 **“CHAPTER 52—TOBACCO PRODUCTS AND**  
 14 **CIGARETTE PAPERS AND TUBES”.**

15 (D) The table of chapters for subtitle E of  
 16 such Code is amended by striking the item re-  
 17 lating to chapter 52 and inserting the following  
 18 new item:

“CHAPTER 52. Tobacco products and cigarette papers and tubes.”

19 (4) EFFECTIVE DATE.—

20 (A) IN GENERAL.—The amendments made  
 21 by this section shall apply to tobacco products,  
 22 cigarette papers, and cigarette tubes removed  
 23 (as defined in section 5702 of the Internal Rev-  
 24 enue Code of 1986, as amended by this section)  
 25 after December 31, 1995.

1 (B) TRANSITIONAL RULE.—Any person  
2 who—

3 (i) on the date of the enactment of  
4 this Act is engaged in business as a manu-  
5 facturer of roll-your-own tobacco or as an  
6 importer of tobacco products or cigarette  
7 papers and tubes, and

8 (ii) before January 1, 1996, submits  
9 an application under subchapter B of  
10 chapter 52 of such Code to engage in such  
11 business,

12 may, notwithstanding such subchapter B, con-  
13 tinue to engage in such business pending final  
14 action on such application. Pending such final  
15 action, all provisions of such chapter 52 shall  
16 apply to such applicant in the same manner  
17 and to the same extent as if such applicant  
18 were a holder of a permit under such chapter  
19 52 to engage in such business.

20 (c) SPECIAL RULES FOR 1996.—

21 (1) FLOOR STOCKS.—On tobacco products, cig-  
22 arette papers, and cigarette tubes manufactured in  
23 or imported into the United States which are re-  
24 moved before January 1, 1996, and held on such

1 date for sale by any person, there shall be imposed  
2 the following taxes:

3 (A) SMALL CIGARS.—On cigars, weighing  
4 not more than 3 pounds per thousand,  
5 \$75.0075 per thousand.

6 (B) LARGE CIGARS.—On cigars, weighing  
7 more than 3 pounds per thousand, a tax equal  
8 to 79.6875 percent of the price for which sold,  
9 but not more than \$187.50 per thousand.

10 (C) SMALL CIGARETTES.—On cigarettes,  
11 weighing not more than 3 pounds per thousand,  
12 \$75 per thousand.

13 (D) LARGE CIGARETTES.—On cigarettes,  
14 weighing more than 3 pounds per thousand,  
15 \$157.50 per thousand; except that, if more than  
16 6½ inches in length, they shall be taxable at  
17 the rate prescribed for cigarettes weighing not  
18 more than 3 pounds per thousand, counting  
19 each 2¾ inches, or fraction thereof, of the  
20 length of each as one cigarette.

21 (E) CIGARETTE PAPERS.—On cigarette pa-  
22 pers, 4.695 cents for each 50 papers or frac-  
23 tional part thereof; except that, if cigarette pa-  
24 pers measure more than 6½ inches in length,  
25 they shall be taxable at the rate prescribed,

1 counting each  $2\frac{3}{4}$  inches, or fraction thereof,  
2 of the length of each as one cigarette paper.

3 (F) CIGARETTE TUBES.—On cigarette  
4 tubes, 9.39 cents for each 50 tubes or fractional  
5 part thereof; except that, if cigarette tubes  
6 measure more than  $6\frac{1}{2}$  inches in length, they  
7 shall be taxable at the rate prescribed, counting  
8 each  $2\frac{3}{4}$  inches, or fraction thereof, of the  
9 length of each as one cigarette tube.

10 (G) SNUFF.—On snuff, \$19.995 per pound  
11 and a proportionate tax at the like rate on all  
12 fractional parts of a pound.

13 (H) CHEWING TOBACCO.—On chewing to-  
14 bacco, \$7.995 per pound and a proportionate  
15 tax at the like rate on all fractional parts of a  
16 pound.

17 (I) PIPE TOBACCO.—On pipe tobacco,  
18 \$25.0125 per pound and a proportionate tax at  
19 the like rate on all fractional parts of a pound.

20 (J) ROLL-YOUR-OWN TOBACCO.—On roll-  
21 your-own tobacco, \$26.025 per pound and a  
22 proportionate tax at the like rate on all frac-  
23 tional parts of a pound.

1           (2) FOREIGN TRADE ZONES.—Notwithstanding  
2       the Act of June 18, 1934 (19 U.S.C. 81a et seq.)  
3       or any other provision of law—

4           (A) tobacco products, cigarette papers, and  
5       cigarette tubes—

6           (i) on which taxes imposed by Federal  
7       law are determined, or customs responsibil-  
8       ities are liquidated, by a customs officer  
9       pursuant to a request made under the first  
10      proviso of section 3(a) of the Act of June  
11      18, 1934 (19 U.S.C. 81c(a)) before Janu-  
12      ary 1, 1996, and

13          (ii) which are entered into the cus-  
14      toms territory of the United States on or  
15      after January 1, 1996 from a foreign trade  
16      zone, and

17          (B) tobacco products, cigarette papers, and  
18      cigarette tubes which—

19          (i) are placed under the supervision of  
20      a customs officer pursuant to the provi-  
21      sions of the second proviso of section 3(a)  
22      of the Act of June 18, 1934 (19 U.S.C.  
23      81c(a)) before January 1, 1996, and

24          (ii) are entered into the customs terri-  
25      tory of the United States on or after Janu-



1           ary 1 of such increase year, from a foreign  
 2           trade zone,  
 3           shall be subject to the tax imposed by para-  
 4           graph (1) and such tobacco products, cigarette  
 5           papers, and cigarette tubes shall, for purposes  
 6           of paragraph (1) be treated as being held on  
 7           January 1, 1996 for sale.

8           (3) CIGARS, CIGARETTES, CIGARETTE PAPER,  
 9           CIGARETTE TUBES, SNUFF, CHEWING TOBACCO,  
 10          PIPE TOBACCO, ROLL-YOUR-OWN TOBACCO, AND TO-  
 11          BACCO PRODUCTS.—For purposes of this subsection,  
 12          the terms “cigar”, “cigarette”, “cigarette paper”,  
 13          “cigarette tubes”, “snuff”, “chewing tobacco”, “pipe  
 14          tobacco”, “roll-your-own tobacco”, and “tobacco  
 15          products” shall have the meaning given to such  
 16          terms by subsections (a), (b), (e), and (g), para-  
 17          graphs (2) and (3) of subsection (n), subsection (o),  
 18          subsection (p), and subsection (c) of section 5702 of  
 19          the Internal Revenue Code of 1986, respectively.

20 **SEC. 302. ASSISTANCE TO STATES ADVERSELY AFFECTED**  
 21 **BY THE TOBACCO TAX.**

22          (a) ESTABLISHMENT OF TRUST FUND.—

23               (1) IN GENERAL.—Subchapter A of chapter 98  
 24          of the Internal Revenue Code of 1986 (relating to

1 trust fund code) is amended by adding at the end  
2 the following new section:

3 **“SEC. 9512. TOBACCO ALTERNATIVES TRUST FUND.**

4 “(a) CREATION OF TRUST FUND.—There is estab-  
5 lished in the Treasury of the United States a trust fund  
6 to be known as the ‘Tobacco Alternatives Trust Fund’  
7 (hereafter referred to in this section as the ‘Trust Fund’),  
8 consisting of such amounts as may be appropriated or  
9 credited to the Trust Fund as provided in this section or  
10 section 9602(b).

11 “(b) TRANSFERS TO TRUST FUND.—The Secretary  
12 shall transfer to the Trust Fund an amount equivalent  
13 to 2 percent of the net increase in revenues received in  
14 the Treasury attributable to the amendments made to sec-  
15 tion 5701 by subsections (b) and (c) of section 301 and  
16 the provisions contained in section 301(d) of the Healthy  
17 Mothers, Healthy Children Act of 1995, as estimated by  
18 the Secretary.

19 “(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—

20 “(1) IN GENERAL.—Amounts in the Trust  
21 Fund shall be available to the Secretary of Agri-  
22 culture, as provided by appropriation Acts, for mak-  
23 ing grants to States that have submitted an applica-  
24 tion in accordance with paragraph (2) for the pur-  
25 poses of—

1           “(A) making direct payments to tobacco  
2 farmers and workers,

3           “(B) providing assistance to farmers in  
4 converting from tobacco to other crops and im-  
5 proving the access of such farmers to markets  
6 for other crops,

7           “(C) providing infrastructure and business-  
8 related financing in areas with significant num-  
9 bers of tobacco-related jobs,

10          “(D) providing job training for tobacco  
11 farmers and workers, and

12          “(E) establishing other economic develop-  
13 ment projects (upon approval of the Secretary  
14 of Agriculture) in areas with significant num-  
15 bers of tobacco-related jobs.

16          “(2) APPLICATION.—Each State desiring to re-  
17 ceive a grant under this subsection shall submit an  
18 application to the Secretary of Agriculture describ-  
19 ing—

20               “(A) the economic impact of the increase  
21 in the rate of tax attributable to the amend-  
22 ments made to section 5701 by subsections (b)  
23 and (c) of section 301 and the provisions con-  
24 tained in section 301(d) of the Healthy Moth-  
25 ers, Healthy Children Act of 1995,

1           “(B) the State’s 5-year goals with regard  
2           to minimizing such economic impact, and

3           “(C) the State’s proposal for the use of the  
4           grant funds.

5           “(3) ALLOCATION FORMULA.—The Secretary of  
6           Agriculture shall develop a formula for allocating  
7           grant funds under this section that shall take into  
8           account the number of farmers and workers affected  
9           by the increase in the rate of tax described in para-  
10          graph (2)(A) in a State and the severity of the eco-  
11          nomic impact in the State.

12          “(4) ANNUAL REPORTS.—Each State that has  
13          received a grant under this subsection shall submit  
14          an annual report to the Secretary of Agriculture de-  
15          scribing—

16               “(A) the economic impact of the increase  
17               in the rate of tax described in paragraph  
18               (2)(A),

19               “(B) an evaluation of the State’s activities  
20               using grant amounts in the previous year, and

21               “(C) an improvement plan for the follow-  
22               ing year.

23          “(5) TERMINATION.—The authority provided by  
24          this section shall terminate on December 31, 2000.”

1           (2) CLERICAL AMENDMENT.—The table of sec-  
 2           tions for such subchapter A is amended by adding  
 3           at the end the following new item:

“Sec. 9512. Tobacco Alternatives Trust Fund.”

4   **SEC. 303. DESIGNATION OF OVERPAYMENTS AND CON-**  
 5                           **TRIBUTIONS FOR THE NATIONAL HEALTH**  
 6                           **TRUST FUND FOR MOTHERS AND CHILDREN.**

7           (a) DESIGNATION OF OVERPAYMENTS AND CON-  
 8           TRIBUTIONS FOR THE NATIONAL HEALTH TRUST FUND  
 9           FOR MOTHERS AND CHILDREN.—

10           (1) IN GENERAL.—Subchapter A of chapter 61  
 11           of the Internal Revenue Code of 1986 (relating to  
 12           returns and records) is amended by adding at the  
 13           end the following new part:

14   **“PART IX—DESIGNATION OF OVERPAYMENTS**  
 15                           **AND CONTRIBUTIONS FOR THE NATIONAL**  
 16                           **HEALTH TRUST FUND FOR MOTHERS AND**  
 17                           **CHILDREN**

“Sec. 6097. Amounts for the National Health Trust Fund for Mothers and Chil-  
 dren.

18   **“SEC. 6097. AMOUNTS FOR THE NATIONAL HEALTH TRUST**  
 19                           **FUND FOR MOTHERS AND CHILDREN.**

20           “(a) IN GENERAL.—Every individual (other than a  
 21           nonresident alien) may designate that—

1           “(1) a portion (not less than \$1) of any over-  
2       payment of the tax imposed by chapter 1 for the  
3       taxable year, and

4           “(2) a cash contribution (not less than \$1),  
5       be paid over to the National Health Trust Fund for Moth-  
6       ers and Children. In the case of a joint return of a hus-  
7       band and wife, each spouse may designate one-half of any  
8       such overpayment of tax (not less than \$2).

9       “(b) MANNER AND TIME OF DESIGNATION.—Any  
10      designation under subsection (a) may be made with re-  
11      spect to any taxable year only at the time of filing the  
12      original return of the tax imposed by chapter 1 for such  
13      taxable year. Such designation shall be made either on the  
14      1st page of the return or on the page bearing the tax-  
15      payer’s signature.

16      “(c) OVERPAYMENTS TREATED AS REFUNDED.—For  
17      purposes of this section, any overpayment of tax des-  
18      ignated under subsection (a) shall be treated as being re-  
19      funded to the taxpayer as of the last day prescribed for  
20      filing the return of tax imposed by chapter 1 (determined  
21      with regard to extensions) or, if later, the date the return  
22      is filed.

23      “(d) DESIGNATED AMOUNTS NOT DEDUCTIBLE.—  
24      No amount designated pursuant to subsection (a) shall be

1 allowed as a deduction under section 170 or any other sec-  
 2 tion for any taxable year.

3 “(e) TERMINATION.—This section shall not apply to  
 4 taxable years beginning in a calendar year after a deter-  
 5 mination by the Secretary that the sum of all designations  
 6 under subsection (a) for taxable years beginning in the  
 7 second year preceding the calendar year is less than  
 8 \$5,000,000.”.

9 (b) CLERICAL AMENDMENT.—The table of parts for  
 10 subchapter A of chapter 61 of such Code is amended by  
 11 adding at the end the following new item:

“Part IX. Designation of overpayments and contributions for the  
 National Health Trust Fund for Mothers and Chil-  
 dren.”.

12 (c) EFFECTIVE DATE.—The amendments made by  
 13 this section shall apply to taxable years beginning with  
 14 the first calendar year beginning after the date of enact-  
 15 ment of this Act.

○

S 933 IS—2

S 933 IS—3

S 933 IS—4

S 933 IS—5

S 933 IS—6

S 933 IS—7

S 933 IS—8

S 933 IS—9

S 933 IS——10

S 933 IS——11